
STATEMENT OF OBJECTS AND REASONS.

THE recent increase in the use of steam-power in British Burma for rice-mills, sawing timber and other purposes is considerable, and will probably continue. Where the steam-engines are under the control of competent European workmen, there is not much danger of accidents; but, in Rangoon and other towns in that Province, steam-engines are sometimes placed in charge of persons who have no knowledge of steam or the steam-engine. Unless while working they are tended by skilled workmen, boilers and prime-movers are liable to speedy decay through wear and tear and neglect, and become dangerous. There is also danger from repairs to boilers and prime-movers being executed by unskilled workmen.

At present, the Government has no power of ascertaining that proper precautions are taken to prevent accidents, and it is obviously desirable, in the interests of workmen and others employed in connection with steam-engines, that such power should be given. The present Bill has accordingly been prepared on the lines of Bengal Act No. III of 1879, which provides for the periodical inspection of steam-boilers and prime-movers in the town and suburbs of Calcutta and in Howrah. It empowers the Local Government to appoint an inspector to examine boilers and prime-movers and to grant licenses authorizing their use; and it prohibits the use of boilers and prime-movers for which licenses have not been granted, and which are not in charge of engineers to whom certificates have been given. The Bill also gives power to the Local Government to provide for the examination of, and the grant of certificates to, persons to act as engineers of the first or second class. Where boilers and prime-movers are in charge of a first class engineer, the Bill provides that he may be appointed inspector of such boilers and prime-movers, which will not in that case be liable to any other inspection.

WHITLEY STOKES.

The 21st February, 1882.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 18, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882 :—

We, the undersigned members of the Select Committee to which the Bill to provide for the Relief of Encumbered Estates in the Jhānsī Division of the North-Western Provinces was referred, have considered the Bill and the papers noted in the margin, and have the honour to present this further report.

From Officiating Secretary to Government, North-Western Provinces and Oudh, No. 629, dated 25th April, 1881, and enclosures [Papers No. 2].
" Officiating Secretary to Government, North-Western Provinces and Oudh, No. 799, dated 19th May, 1881, and enclosures [Papers No. 3].

The Bill, as amended by us, was laid before the Council, with our report dated 4th February, 1881, and was sent to the Local Government for opinion.

The Government of the North-Western Provinces replied in their Secretary's letter, No. 629, dated 25th April, 1881. In that letter, the Lieutenant-Governor suggested an entirely new plan for dealing with the Jhānsī question, and forwarded a memorandum prepared by Mr. Bazett Colvin, and the rough draft of a new Bill.

It is this new Bill which we have now had under consideration.

The chief points of the present scheme, as laid down by Mr. Colvin, are as follows :—

- (1). The indebted zamindār, or an officer appointed for the purpose by the Local Government, may apply to the Commissioner of the Division, stating the debts and liabilities of such zamindār.
- (2). The Commissioner may refer the application to an officer styled "the Special Judge", who is to be appointed for this purpose, and who may, if the Local Government pleases, be one of the District staff.
- (3). On the receipt of an application by the Special Judge, all claims against the indebted zamindār are to be called in.
- (4). In dealing with the claims, the Special Judge is to have powers similar to those conferred on the Courts by the Dekkhan Agriculturists' Relief Act, No. XVII of 1879.
- (5). All proceedings, of whatever kind, taken in other Courts against the indebted zamindār, are to be for ever stayed; and he is to be disabled from contracting fresh liabilities, until certain conditions have been fulfilled.
- (6). The Special Judge will determine the amount of the debts and liabilities of the zamindār, and will ascertain the nature and amount of property possessed by him, other than his proprietary rights in land.
- (7). If the value of such property, other than as aforesaid, is sufficient to pay the debts, the Special Judge will give the creditors decrees, which they may execute through the ordinary Civil Courts.
- (8). If such value is not so sufficient, the Special Judge will submit to the Commissioner a report showing the amount of the debts due by the zamindār, and detailing the property, other than proprietary rights in land, belonging to such zamindār.

- (9). An arbitrary value is then to be put on the zamíndár's proprietary rights in land ; (1), for the purpose of a loan from Government, a sum equal to eight times the nett annual profits derived from such rights ; (2), for the purchase of such rights by Government, a sum equal to sixteen times and two-thirds such nett annual profits.
- (10). If the debts certified by the Special Judge can be met by the proceeds of such other property as the indebted zamíndár possesses, together with a sum equal to the loan value of his proprietary rights in land, the zamíndár is to be asked if he will accept a loan from Government. If he accepts, the money is to be advanced from the public treasury, and the debts are to be paid. If he declines, the Commissioner may sell his proprietary rights by auction, to the extent necessary to meet the claims certified by the Special Judge.
- (11). When the zamíndár accepts a loan, the Government will have a lien on his land. If he fails to repay the loan within the time laid down for that purpose by the Commissioner, his proprietary rights, or such part of them as may be necessary to cover the unpaid portion of the loan, shall vest in the Secretary of State for India in Council.
- (12). When the debts certified by the Special Judge, exceed in amount the aggregate value of the zamíndár's other property and of his proprietary rights in land as estimated for the purpose of a loan, the zamíndár is to be declared to be insolvent, and his proprietary rights in land are to be sold by auction.
- (13). Such rights will be put up for sale at the upset price of sixteen times and two-thirds the nett annual profits, and sold to the highest bidder above that sum. If there is no bid, the Commissioner will pay to the insolvent's estate a sum equal to sixteen times and two-thirds the nett annual profits. The debts will be paid off, so far as may be practicable, and the insolvent's proprietary rights in land will vest in the Secretary of State for India in Council.
- (14). In all cases in which the proprietary rights shall vest in the Secretary of State for India in Council, the zamíndár will continue to hold his sir-land as an ex-proprietary tenant. And the same consequence ensues, as a matter of course, when his rights are sold on his refusal to accept a loan.
- (15). On the final completion of any of these proceedings, that is to say, when the zamíndár's proprietary rights have been sold, or when they have vested in the Secretary of State for India in Council, or when the loan has been re-paid, the Commissioner will declare the disabilities imposed on the zamíndár to be removed.

The zamíndár then will be in this position. If he has taken a loan, he will be liable for the repayment of the loan, by instalments, with interest. He will have to pay these sums in addition to his land-revenue, but they will probably be less than the sums extracted from him by his creditors. He will have his sir-land to live upon, together with whatever remains to him out of his rental, after the payments of instalments of the loan, interest thereon, land-revenue and rates. He will be freed from all other liabilities and encumbrances, and, after the loan is re-paid, will be restored to the full enjoyment of his rights.

If he refuses the loan, he will lose his proprietary rights, in whole or in part, but he will be completely freed from debt, and will continue to hold his sir-land as an ex-proprietary tenant.

Such also will be his position if he is declared an insolvent.

We have made the following material alterations in the Bill, as drafted by Mr. Bazott Colvin :—

Firstly, Mr. Colvin provided that, if the debts, as found by the Special Judge, could be met by the proceeds of the sale of the zamíndár's property, other than his proprietary rights in land, the Special Judge should give the creditors decrees and leave them to get satisfaction in ordinary course of law. He provided also that, in such case, the zamíndár's disabilities were to cease.

It appears to us that the result of this proceeding would be to start the zamíndár on a fresh career, with decrees hanging over him, to meet which he would probably raise fresh loans.

We have provided, therefore, that in these cases also the Special Judge shall send a report to the Commissioner, who will cause the property enumerated in the Special Judge's report, or a portion of it, to be sold. If the proceeds are sufficient to pay the debts as determined by the Special Judge, the Commissioner will pay such debts, and the zamíndár will thereupon be discharged from all liabilities.

If the proceeds are not so sufficient, the Commissioner will cause the valuation of the zamíndár's proprietary rights to be made, and the case will go on as contemplated by Mr. Colvin.

Secondly, we think that the value proposed to be put upon the zamíndár's interest in the land is too high. It is probably three times as much as property of the kind in Jhānsí would fetch at public auction. We assent to the principle that the zamíndár's creditors, whose contracts we propose to override, should be generously dealt with ; but we do not think it is safe to advance more than six times the nett annual profits of the property as a loan, or to give more than ten times such profits for the purchase of such property.

The interest chargeable on loans advanced by Government under the Bill has been fixed at five per cent. simple interest, with the assent of the Financial Department. The Bill has been amended accordingly.

Thirdly, we think that, when the debts of the zamíndár can be met with a loan, it is unnecessary to provide that his proprietary rights in land shall, on his failure to repay the loan, vest in the Secretary of State for India in Council.

The necessary corollary of this provision is that, when part of the loan has been re-paid, part only of the proprietary rights shall be forfeited. The result will be, that small parts of villages or shares in villages will belong to Government and much trouble will be given to the administration.

It seems to us better to provide that, on the occurrence of a default in the payment of any instalment of principal or interest, the whole sum due shall be deemed to be an arrear of land-revenue, and shall be recoverable as such.

This provision will give the Deputy Commissioner ample power to take possession of the defaulter's land, and, if necessary, will enable Government to sell the defaulter's proprietary rights under the land-revenue law.

The objection taken to this amendment is, that it will compel the district-officer to manage the land. But in any case, whether he assumes possession for a term of years as we propose, or whether the proprietary rights of the defaulter are vested in the Secretary of State for India in Council, some arrangement will have to be made for the management of the land and the collection of the rents. There will be no more difficulty in the one case than in the other.

The Bill appears to us now to be put in as simple a shape as is practicable.

We recommend that the Bill, as now amended, be published in the *Gazette of India* and in the local official Gazette.

C. H. T. CROSTHWAITE.

WHITLEY STOKES.

RIVERS THOMPSON.

E. BARING.

W. C. FLOWDEN.

The 16th March, 1882.

No. III. THE JHĀNSĪ ENCUMBERED ESTATES BILL, 1882.

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No. III.

A Bill to provide for the relief of Encumbered Estates in the Jhānsī Division of the North-Western Provinces.

WHEREAS many zamīndārs in the Jhānsī Division of the North-Western Provinces are in debt, and their immoveable property is subject to encumbrances, and it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Jhānsī Encumbered Estates Act, 1882" and it shall come into force on the passing thereof.
2. In this Act—
- "zamīndār" means a proprietor of land or of any share in land assessed to revenue, and includes an ubāridār;
- "sīr-land" means—
- (a) land recorded as sīr at the last settlement or revision of settlement of the district in which it is situate, and continuously so recorded since;
- (b) land continuously cultivated for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour;
- (c) land recognized by village-custom as the special holding of a co-sharer, or treated as such in the distribution of profits or charges among the co-sharers.

CHAPTER II.

APPOINTMENT OF OFFICERS.

3. The Local Government may, from time to time, by notification in the official Gazette, appoint, for any local area in the Jhānsī Division, a special Judge, who shall exercise the powers conferred, and perform the duties imposed, by this Act on such officer.

The Local Government may, at any time, by a like notification, suspend or remove any special Judge so appointed.

CHAPTER III.

OF THE APPLICATION AND PRELIMINARY INQUIRY.

4. At any time within twelve months after a special Judge is appointed for any local area, any zamīndār owning land in such area, or such officer as the Local Government may, from

time to time, appoint in this behalf, may apply, in writing, to the Commissioner of the Jhānsī Division, stating that such zamīndār is subject to debts or liabilities other than debts due, or liabilities incurred, to Government, or that his immoveable property is encumbered with debts and liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to him:

Provided that, when such zamīndār is a disqualified proprietor within the meaning of section 194 of the North-Western Provinces Land-revenue Act, 1873, such application shall be made—

- (a) when his property is under the superintendence of the Court of Wards, by the manager of his property, with the consent of that Court; and
- (b) when his property is not under such superintendence, by the Deputy Commissioner of the district in which such property is situate.

The Local Government may, from time to time, by notification in the official Gazette, extend the time prescribed for making applications under this section.

5. When any such application is made in the case of any zamīndār, the Commissioner shall direct an inquiry to be made by the special Judge—

- (a) into the nature and amount of such debts and liabilities other than debts due, and liabilities incurred to, Government; and
- (b) into the sufficiency of such zamīndār's property, whether moveable or immoveable, (exclusive of the property mentioned in the first proviso to section 266 of the Code of Civil Procedure), to discharge such debts and liabilities other than as aforesaid.

6. When an inquiry has been directed under section five, the applicant shall, within a period to be fixed by the Commissioner, submit to the special Judge a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints.

Such statement shall contain, so far as may be practicable,—

- (a) such particulars as the special Judge may require respecting the debts and liabilities, other than as aforesaid, to which the zamīndār is subject, or with which his immoveable property or any part thereof is encumbered;
- (b) the nature and value of the zamīndār's property (exclusive of his proprietary rights in land and the property mentioned in the first proviso to section 266 of the Code of Civil Procedure); and
- (c) the names and residences of his creditors, so far as they are known to, or can be ascertained by, such zamīndār.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code:

Provided that, when the application is made by an officer appointed under section four, or by the Deputy Commissioner, it shall not be necessary to verify such statement; but the zamindár shall, so far as may be practicable, within a period to be fixed by the special Judge, furnish such information regarding the matters mentioned in section six, clauses (a), (b) and (c), as such Judge may require.

CHAPTER IV.

PROOF OF DEBTS AND PROCEDURE OF SPECIAL JUDGE.

7. When the duly verified statement or the information referred to in section six has been submitted or furnished, the special Judge shall publish in the official Gazette, a notice in the vernacular language of the district, calling upon all persons having claims against the person or the property of the zamindár, by, or with respect to, whom the application was made, under section four, to present to the special Judge, within two months from the date of such publication, a written statement of such claims.

Provided that, when the claimant satisfies the special Judge that he had sufficient cause for not presenting such statement within such period, the special Judge may receive such statement within a further period of two months from the expiration of the original period.

The special Judge shall also cause copies of such notice to be exhibited at his own office, at the offices of the Commissioner of the Jhansi Division and the Deputy Commissioner of the district in which the land of such zamindár is situate, and at some conspicuous place in the village where such zamindár resides.

8. After the publication of such notice, the following consequences shall ensue (namely):—

(a) all proceedings then pending in any civil or revenue Court in British India, in respect of all debts and liabilities, other than as aforesaid, to which the zamindár is subject, or with which his immoveable property is encumbered, shall be for ever stayed; and all processes, executions and attachments issued by any such Court, and then in force, in respect of any such debt or liability, shall become null and void;

(b) in respect of such debts and liabilities, no fresh proceedings, processes, executions or attachments shall, except as hereinafter provided, be instituted in, or issued by, any civil or revenue Court in British India;

(c) until the Commissioner has declared, as hereinafter provided, that the zamindár has ceased to be subject to the disabilities mentioned in this clause, such zamindár shall be incompetent to sell, mortgage, exchange, give or, without the consent of the Commissioner, lease, his proprietary rights in land or any part thereof.

9. Every claimant referred to in section seven shall, in the written statement of his claim, present full particulars thereof.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the special Judge along with such written statement.

If the document be an entry in any book, the claimant shall produce the book to the special Judge together with a copy of the entry on which he relies. The special Judge shall mark the book, for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

If any document in the possession, or under the control, of the claimant is not delivered or produced by him, as required by this section, the special Judge may refuse to receive such document in evidence on the claimant's behalf, at the investigation of the case.

10. Every such claim (other than claims of the Government), not made within the time and in the manner hereby required, shall be deemed, for all purposes, and on all occasions, to have been duly discharged.

11. The special Judge shall hear the zamindár, or, when the application has been made on behalf of a disqualified proprietor, shall hear the manager of his property, or the Deputy Commissioner, as the case may be, in answer to each claim so made; and, if the amount of any such claim (other than a claim decreed by a competent Court) is disputed, shall inquire into the history and merits thereof from the commencement of the transactions between the parties, and shall, as hereinafter provided, determine the amount (if any) justly due to the claimant.

12. When the special Judge inquires, under section eleven, into the history and merits of a claim, he shall—

notwithstanding any agreement between the zamindár and the claimant, or the persons (if any) through whom they claim, as to allowing compound interest, or as to setting off the profits of mortgaged property in lieu of interest without an account, or otherwise determining the manner of taking the account, and

notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

open the account from the commencement of the transactions between the parties, and take that account according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken ;

(b) in the account of principal, there shall be debited to the zamindár such money as may, from time to time, have been actually received by him, or on his account, from the claimant, and the price of goods (if any) sold to him by the claimant, as part of the transactions between them ;

(c) in the account of principal, there shall not be debited to the zamindár any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure ;

(d) in the account of principal, there shall not be debited to the zamindár any accumulated interest which has been converted into principal at any statement or settlement of account, or by any contract made in the course of the transactions, unless the special Judge, for reasons to be recorded by him in writing, deems such debit to be reasonable ;

(e) in the account of interest, there shall be debited to the zamindár monthly simple interest on the balance of principal for the time being outstanding, at the rate allowed by the special Judge as hereinafter provided ;

(f) all money paid by, or on account of, the zamindár to the claimant or on his account, and all profits, service, or other advantages of every description received by the claimant in the course of the transactions, shall be credited first in the account of interest ; and, when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the zamindár in the account of principal :

Explanation—The advantages mentioned in this clause shall be estimated, if necessary, at such money-value as the special Judge may determine in his discretion, or with the aid of arbitrators appointed by him ;

(g) the accounts of principal and interest shall be made up to the date of making the claim ; and the aggregate of the balances (if any) appearing due on both such accounts against the zamindár at that date, shall be deemed to be the amount due at that date, except when the balance appearing due on the account of interest exceeds that appearing due on the account of principal, in which case double the latter balance shall be deemed to be the amount then due.

13. The interest to be awarded in taking an account, according to the rules set forth in section twelve, shall be—

(a) the rate (if any) agreed upon between the zamindár and the claimant, or the persons (if any)

through whom they respectively claim, unless such rate is deemed by the special Judge to be unreasonable ; or

(b) if such rate is deemed by the special Judge unreasonable, or if no rate was agreed upon, or, when any agreement to set off profits in lieu of interest without an account, entered into between the zamindár and the claimant, or the persons (if any) through whom they respectively claim, has been set aside by the special Judge, such rate as the special Judge deems reasonable.

14. If the amount so determined to be due cannot, in the opinion of the special Judge, be paid at once, he shall then proceed to rank the claims according to the order in which they shall be paid or discharged, and to fix the interest (if any) to be paid on the amounts thereof respectively from the date of the final decision thereon to the date of the payment and discharge thereof.

15. When the amount of the claims has been finally determined in the manner hereinbefore prescribed, the special Judge shall submit a report to the Commissioner, showing the nature and amount of the claims so determined, and also the nature and amount of all the zamindár's property (exclusive of his proprietary rights in land and the property mentioned in the first proviso to section 266 of the Code of Civil Procedure), which may be available for the payment or discharge of the same.

CHAPTER V.

PROCEDURE OF COMMISSIONER AND MODE OF LIQUIDATION.

16. On receiving such report, the Commissioner shall direct that the property reported by the special Judge, as available for the discharge of the claims determined by him, or any specified portion of such property, be sold by public auction, and, from the proceeds thereof, shall pay or discharge, so far as practicable, the amount of the said claims.

If such proceeds are not sufficient to pay or discharge in full such amount, the Commissioner shall direct the value of the zamindár's proprietary rights in land, to be ascertained in the manner following :—

For the purposes of a loan, the value of such rights shall be estimated to be a sum amounting to six times the nett annual profits of such zamindár.

For the purposes of purchase by Government, the value of such rights shall be estimated to be a sum amounting to ten times such nett annual profits.

Explanation—The expression "nett annual profits" means the aggregate amount—

(a) of the rents which a zamindár is entitled to receive as such annually from his tenants;

(b) of all profits received by him as zamindár, and of the rent which he would have to pay for his sir-land (if any), if he were an exproprietary tenant thereof,

after deducting, from such aggregate amount, the Government revenue and all rates payable by him, under the North-Western Provinces Local Rates Act, 1878, or any other Act for the time being in force.

17. When the value of the zamindár's proprietary rights has been ascertained as directed in section sixteen, the Commissioner shall proceed as follows:—

(a) If the sum at which the zamindár's proprietary rights in land have been valued for the purposes of a loan, is sufficient to pay or discharge the balance of the said claims, the Commissioner may, with the consent of the zamindár, direct such sum as may be necessary, not being more than the amount of such valuation, to be advanced from the public treasury as a loan to the zamindár, and shall, from the sum so advanced, pay or discharge in full the balance of the said debts and liabilities.

(b) If the zamindár does not consent to accept such loan, the Commissioner may direct that any portion, or, if necessary, the whole, of such rights, shall be sold in the manner hereinafter prescribed, in order to discharge such balance. Out of the proceeds of such sale, the Commissioner shall, so far as practicable, discharge such balance.

(c) If the sum at which the zamindár's proprietary rights in land have been valued, for the purposes of a loan, is not sufficient to discharge the balance of the said debts and liabilities, the Commissioner may order his proprietary rights in land to be sold, in the manner hereinafter prescribed.

The purchaser, under this section, of the zamindár's proprietary rights shall take the same free of all encumbrances created by such zamindár, or the person through whom he claims.

18. When an order for the sale of the proprietary rights of any zamindár has been made hereunder, the Commissioner may order such rights to be attached and taken under the management of the Deputy Commissioner, who shall have, for this purpose, the same powers as are conferred, for the management of a mahál, on a Collector by the North-Western Provinces Land-revenue Act, 1873, section one hundred and fifty-five.

Such management shall continue until such rights are sold hereunder.

19. All sales, under this Act, of proprietary rights in land, shall be made by public auction in the manner prescribed by the said North-Western Provinces Land-revenue Act, 1873, for the sale of immoveable property for arrears of land-revenue.

If, at the public auction of any zamindár's proprietary rights in land, any bid be made for such rights above the sum at which they have been valued for the purposes of purchase by Government, such rights shall be sold to the highest bidder; and the proceeds of such sale shall be paid to the Deputy Commissioner or such officer as the Commissioner may direct. If no such bid be made, the Commissioner shall direct a sum of money equal to the amount of such valuation to be paid from the public treasury to the Deputy Commissioner or such officer.

20. The Deputy Commissioner or such officer, as the case may be, shall thereupon, subject to the control of the Commissioner,—

firstly—pay, from the money which he has received under section nineteen, the debts, fines and liabilities (if any) due or incurred by the zamindár to the Government;

secondly—pay all costs awarded against the zamindár by the special Judge or Commissioner;

thirdly—out of the balance of such money, pay or discharge, so far as may be practicable, the claims against the zamindár determined by the special Judge in the order in which they are ranked under section fourteen by such Judge;

fourthly—pay the surplus (if any) to the zamindár.

21. When a sum of money has been lent, under section seventeen, to a zamindár, and applied in payment or discharge of the claims against him the following consequences shall ensue (namely):—

(a) his proprietary rights in land shall be deemed to be mortgaged to the Secretary of State for India in Council, until such loan shall have been fully paid off;

(b) he shall be bound to repay the amount of such loan, with interest thereon at the rate of five per cent. per annum, by yearly instalments, within such term, not exceeding ten years, as the Commissioner may prescribe;

(c) in the event of his failing to pay any such instalment of principal or interest on the day fixed for the payment thereof, the whole sum remaining due on account of principal or interest, or both, shall be recoverable as an arrear of land-revenue due by him.

22. When a sum of money has been paid from the public treasury, as provided in section nineteen, and applied towards paying or discharging the claims against

Conditions of purchase by the Government.

a zamindár, the following consequences shall ensue (namely) :—

(a) his proprietary rights in land shall vest in the said Secretary of State in Council;

(b) in respect of his sir-land, the proprietary rights in which are, under this section, vested in the said Secretary of State in Council, the zamindár shall be deemed to be an ex-proprietary tenant holding such land directly under the Government.

Power to declare that zamindár has ceased to be subject to disabilities. **23.** In each of the following cases (namely) :—

(a) when the amount lent, under section seventeen, to a zamindár has been repaid, together with the interest due thereon, or

(b) when such amount has been recovered from him as an arrear of land-revenue or has been remitted, in whole or in part, by the Local Government, or

(c) when the whole, or, where it is necessary to sell only a portion, such portion, of his proprietary rights in land has been sold under this Act to the highest bidder, or such rights have vested in the said Secretary of State in Council, under section twenty-two;

the Commissioner shall declare that such zamindár has ceased to be subject to the disabilities mentioned in section eight, clause (c) :

Provided that in cases coming under clause (b) of this section, no such declaration shall be made without the previous sanction of the Local Government.

CHAPTER VI.

OF APPEAL AND REVISION.

24. An appeal against any decision or order, under this Act, of the special Judge shall lie to the Commissioner, Appeals. if preferred within one month from the date of such decision or order :

Provided that when the Appellant satisfies the Commissioner that he had sufficient cause for not presenting the appeal within such period, such appeal may be admitted after the period prescribed by this section.

Subject to the power of revision next herein-after provided, the decision of the Commissioner on an appeal, under this section, shall be final.

25. The Board of Revenue or the Commissioner may, of its or his own motion, or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon, consistent with the provisions herein contained, as it or he thinks fit :

Provided that nothing in this section shall empower the Commissioner to pass any order reversing or modifying an order previously passed by the Board of Revenue.

CHAPTER VII.

MISCELLANEOUS.

26. The Local Government may, from time to time, make rules consistent with this Act—

(a) to regulate the procedure in all cases under this Act ;

(b) to declare what shall, for the purposes of this Act, be deemed to be the vernacular language of any specified district; and

(c) generally to carry out the provisions of this Act.

Such rules shall be published in the official Gazette, and, when so published, shall have the force of law.

27. Every investigation conducted by the special Judge, with reference to any claim made to him under this Act, or to any matter connected with such claim, shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code ; and the special Judge shall be deemed to be a public servant within the meaning of the said Code.

28. For the purposes of compelling the attendance of witnesses and the production of documents the special Judge shall have the powers conferred on a Civil Court by the Code of Civil Procedure.

29. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith pursuant to this Act.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

(First Publication.)

The following Report of a Select Committee, together with the Bill, as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882 :—

We, the undersigned Members of the Select Committee to which the Bill to consolidate

Preliminary Note by the Commissioner, Jabalpur Division, Central Provinces, dated 1st September, 1878 [Paper No. 1].

Note by Officiating Commissioner, Nagpur Division [Paper No. 2].

Commentary by Officiating Commissioner, Nagpur Division [Paper No. 3].

Note by Officiating Judicial Commissioner, Central Provinces, dated 15th October, 1879 [Paper No. 4].

From Settlement-officer, Sirsa, dated 25th August, 1880, and enclosure [Papers No. 5].

.. Commissioner, Haidarabad Assigned Districts, No. 4640, dated 18th September, 1880 [Paper No. 6].

.. Gopal Narayan Ghatate and other malguzars, Nagpur Division, dated 26th December, 1880, and enclosure [Papers No. 7].

.. Lakshmi Narayana Pandit, Pleader, High Court, North-Western Provinces, dated 2nd March, 1881, and enclosure [Papers No. 8].

.. Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 2283-112, dated 23rd January, 1881, and enclosure [Papers No. 9].

.. Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 353-23, dated 1st February, 1881, and enclosure [Papers No. 10].

.. Officiating Secretary to Chief Commissioner, Central Provinces, No. 3799-208, dated 19th October, 1881, and enclosure [Papers No. 11].

referred the Bill to a Committee composed of officers* belonging to the Central Provinces, whose

*Mr. C. H. T. Crosthwaite, Judicial Commissioner.

.. J. W. Neill, Commissioner, Nagpur.

.. J. W. Chisholm, Officiating Commissioner, Nabada.

commended by this Committee have received the unqualified support of the Chief Commissioner. They are of such a nature as to render it necessary to re-draft the Bill.

3. We have, accordingly, amended and re-cast the Bill, but the majority of us desire to reserve our opinion as to the expediency of making these amendments until the Bill has been republished in its present shape, and subjected to further criticism. The most important amendments, and those to which we desire to attract particular attention, are as follows :—

(1.)—The Bill, as introduced, withdrew the power of making a distraint for rent, and practically compelled the landlord to sue a tenant on the produce of whose holding he wished to retain a lien for arrears of rent.

The Bill, as now amended, gives no right to distrain, but it maintains the landlord's lien on the produce for rent, and directs a Court executing a decree, other than for rent, by attachment and sale of the produce of a tenant's holding, to pay to the landlord, out of the proceeds of the sale, and before satisfying the decree-holder, any arrear of rent that may be due by the tenant, and likewise the instalment of rent falling due next after the usual date of harvesting the produce attached and sold.

It also allows a landlord, when an arrear is due to him, to prohibit the tenant, for a period of twenty-eight days, from removing the produce of the holding on which the rent is due. It is intended by this provision to give the landlord time to institute a suit and apply to the Court for an order to attach the produce. These provisions do not apply to rent due for a longer period than one year.

(2.)—The Bill, as introduced, took away the right conferred at the settlement on those tenants who are known as absolute occupancy-tenants, of transferring their holdings.

and amend the law relating to Agricultural Tenancies in the Central Provinces was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

2. The Bill introduced on the 6th August, 1880, met with much criticism in the Central Provinces. In May, 1881, the Chief Commissioner

report has been now under consideration. The amendments re-

The amended Bill maintains this class of tenants exactly in the position given to it at settlement.

(3.)—The amended Bill stops the future growth of occupancy-right by operation of the twelve-year rule, but maintains in the enjoyment of that right those tenants who, at the passing of the Act, have acquired it.

(4.)—The Bill, as introduced, established a class of protected tenants, the condition of protection being, *inter alia*, residence and cultivation of land in the village for five years. Tenants, who had not so qualified, it left to the landlord's discretion.

The amended Bill protects all ordinary tenants (i. e., all tenants who have not absolute occupancy or occupancy-rights and are not sub-tenants) from capricious eviction.

(5.)—The Bill, as introduced, provided for the determination of the rent of occupancy-tenants primarily on the basis of the settlement-rates and the customary rates paid by tenants of the same class; and fixed the rents so determined for the term of settlement, subject to enhancement or abatement on account of change in the value of the produce or in the productive power of the land.

It left the rent of protected tenants to be determined, in case of dispute, by the Courts, with reference to the rent paid by ordinary tenants. A rent so determined was only fixed from year to year.

The amended Bill adopts, for the determination of the rent of ordinary tenants, the principle of compensation for disturbance, giving the tenant from whom an increase of rent is demanded the option of agreeing to the enhancement, in which case his rent will be fixed for seven years, or of leaving the land, taking, as compensation, ten times the sum demanded as enhancement.

It provides that the rents of absolute occupancy-tenants shall not be raised during settlement.

It provides that the rents of occupancy-tenants, i. e., those who have acquired rights under the twelve-year rule, shall be fixed at twenty-five per cent. below the rent paid by ordinary tenants for like land, and that, when the rent of such tenants has been fixed, it shall not be enhanced till after the expiry of a period of ten years.

In the case of all classes of tenants, the landlord is, at any time, entitled to an increase of rent if the productive power of the land has been increased by improvements made by such landlord, or if the area of the holding has been added to.

4. We recommend that the Bill, as now amended, be re-published in the *Gazette of India* and sent to the Local Government for publication in the local Gazette and translation into the vernacular languages; and that its re-consideration be postponed for a period of two months.

C. H. T. CROSTHWAITE.

WHITLEY STOKES.

W. W. HUNTER.

H. J. REYNOLDS.

The 16th March, 1882.

No. II. THE CENTRAL PROVINCES TENANCY BILL, 1882.

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No. II.

A Bill to Consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Central Provinces Tenancy Act, 1882":

It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces, except those specified in the Scheduled Districts Act, 1874, Schedule I, Part VI;

and it shall come into force on such day as the said Chief Commissioner, with the previous sanction of the Governor General in Council, may by notification in the local official Gazette direct.

2. On and from such day the Acts mentioned in the schedule hereto annexed, shall be repealed so far as they relate to the territories to which this Act extends.

But nothing contained in this Act, or in any Act hereby repealed, shall affect the rights or liabilities of tenants or landlords in the districts of Nimár, Chánda and Sambalpúr, so far as such rights or liabilities have been determined by any order of the Governor General in Council made at the settlement of any such district.

All suits or applications instituted or made under any Act hereby repealed, and which, when this Act comes into force, are pending before any officer, before whom they would have been instituted or made, if this Act had been in force, shall, so far as may be, be deemed to have been respectively instituted or made hereunder.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(2) "tenant" means a person who holds land of another person, and is, or, in the absence of a contract to the contrary, would be, liable to pay rent for such land to such other person. But it does not include a mortgagee or a person who takes a lease of unoccupied land for the purpose of sub-letting it, or of land already in the occupation of cultivators.

Where such person, at the time of taking a New lease of such land, is a tenant of any land included therein, he does not by reason only of such lease cease to be a tenant of the land so included:

(3) "landlord" means the person of whom a tenant holds land, and to whom such tenant is, or, in the absence of a contract to the contrary, would be, liable to pay rent therefor; but when the right to receive rent or any other right which a landlord is entitled as such to exercise, is, for the time being, vested in a person other than the person of whom the land is held, such other person shall be deemed to be the landlord in respect of the right so vested:

(4) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(5) "pay" and "payable" used with reference to rent, include "deliver" and "deliverable":

(6) "arrear" means an instalment of rent which is not paid on or before the date on which it is payable:

(7) "holding" means a parcel of land held by a tenant of a landlord under one lease or agreement:

(8) "improvement" means, with reference to a holding, any work which adds to the letting-value of such holding, without diminishing the value of any other part of the estate of the landlord of whom such holding is held; which is suitable to such holding and consistent with the purpose for which it was let; and which, if not executed on the holding, is either executed directly for its benefit or is, after execution, made directly beneficial to it:

It includes the reclaiming, enclosing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells, and water-channels as are ordinarily made by tenants.

Explanation.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(9) "Revenue-officer" means any Revenue-officer appointed under the Central Provinces Land-revenue Act, 1881, not being below the rank of Tahsildár, and includes also a Settlement-officer:

(10) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified District or Districts, from time to time, appoint:

(11) "sir-land" means (a) land recorded as "sir" in the papers of the last preceding settlement of the local area in which such land is situate; and (b) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years; and (c) waste land which has been broken up by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years; and (d) in Sambalpur, includes also "bhogra" land.

Explanation.—Land which has, after the date of such settlement, or the expiry of such period of twelve years, or six years (as the case may be), been for a period of six consecutive years unoccupied by such proprietor is not sir-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sir-rights.

(12) "mahal" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of the Central Provinces Land-revenue Act, 1881, to be a mahal:

(13) "village" includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Chief Commissioner declares to be a village for the purposes of the Central Provinces Land-revenue Act, 1881;

(14) "lamhardar" means a person appointed under the Central Provinces Land-revenue Act, 1881, to represent the proprietary body of a mahal in its relations with the Government:

(15) "record-of-rights" includes the supplementary administration-paper prepared at or after the time of making a settlement before the Central Provinces Land-revenue Act, 1881, came into force.

CHAPTER II.

OF THE CLASSES OF TENANTS, AND THEIR ORDINARY RIGHTS AND LIABILITIES.

4. There shall be four classes of tenants:—

- (1)—Absolute occupancy-tenants:
- (2)—Occupancy-tenants:
- (3)—Ordinary tenants:
- (4)—Sub-tenants.

A.—Rights and Liabilities common to all Classes of Tenants.

5. In all suits and proceedings between landlord and tenant, the rent payable for any year by a tenant, in respect of his holding, shall be deemed to be the rent payable, in respect of such holding, in the year immediately preceding such year, unless a different rent has been agreed upon, in writing, by the landlord and the tenant, or has been fixed by an order under this Act. Bill, ss. 4, 66.

Presumptions as to rents payable.—In all suits and proceedings between landlord and tenant, the rent payable for any year by a tenant, in respect of his holding, shall be deemed to be the rent payable, in respect of such holding, in the year immediately preceding such year, unless a different rent has been agreed upon, in writing, by the landlord and the tenant, or has been fixed by an order under this Act.

6. When the rent of a holding is fixed by any order under this Act, such order shall take effect from the commencement of the agricultural year next following the date of the application upon which such order is made. Provided that, if such application is made on the ground of an increase, or diminution, of the area of a holding, the order shall take effect from such date as the officer making it may direct. Bill, s. 5.

7. Rents shall be payable in such instalments and on such dates as the Chief Commissioner may, from time to time, by rule prescribe, and in the absence of such rule, according to local usage. Bill, 3.

8. In the absence of any person duly appointed to act on behalf of several persons who are joint proprietors of a mahal, the lamhardar shall be deemed to be, for the purpose of this Act, the sole person entitled to grant leases to tenants, or enter into agreements with tenants as such, of the land held jointly by such proprietors, or to give receipts for the rent of such land, or to issue any notice, make any application, or being any suit, under this Act, to, in respect of, or against, any tenant of such land. Bill, s. 46.

9. When two or more persons are the joint landlords of any tenant, such tenant, subject to any rule which the Chief Commissioner may, from time to time, make in this behalf, shall not be compelled to pay part of the rent of his holding to one of such persons and part to another or others; and such persons shall, if the tenant so desires, appoint one of their number, or some other person, to receive the rent of such holding. Bill, s. 47.

10. When any landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant, and

when any tenant, in the case mentioned in section nine, desires the appointment of a person to receive rent payable in money and no such appointment is made within a reasonable time, and when any tenant in any other case is doubtful as to the person entitled to receive such rent from him, such tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of

rent which he believes to be due; and such officer shall receive such deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application and that it was made in good faith.

Bill, s. 8.

11. When any deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord on account of rent due.

Deposit to be deemed a payment to the landlord.

The officer receiving such deposit may pay the amount thereof to any person appearing to him to be entitled to receive the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

Revenue-officer how to deal with deposit.

No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing herein contained shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

Bill, s. 9.

12. Every tenant, from whom any sum is levied by his landlord in excess of the rent specified in his lease, or payable under the provisions of this Act, shall be entitled to recover from such landlord a sum not exceeding double the amount so levied.

Penalty for exaction by landlord.

Bill, s. 9.

13. When any landlord refuses a receipt for rent paid by a tenant, or grants such receipt but refuses or neglects to specify therein the period or crop in respect of which the payment is made, such tenant shall be entitled to recover from such landlord a sum not exceeding double the amount of the rent so paid.

For not giving receipt.

Bill, s. 80, cl. (b).

14. Notwithstanding anything contained in this Act, or in the conditions of settlement, the rent of any tenant may, on the application of the landlord, be enhanced on the ground that the productive power of the tenant's holding has been increased through the agency or at the expense of the landlord. Such enhancement shall bear the same proportion to such rent as the increase so effected in the productive power of the holding bears to the productive power of the holding as it was immediately before such increase was effected.

Enhancement allowed when productive power of holding has been increased by landlord.

The rent of an absolute-occupancy tenant shall not be enhanced under this section when the productive power of the holding has been increased by an improvement made by a landlord in contravention of any rule made hereunder.

Bill, s. 89, cl. (d).

15. When the area of a holding is increased or diminished by encroachment, fluvial action or otherwise, a Revenue-officer may, by

Power to fix rent when area of holding is altered.

order, on the application of the landlord or of the tenant, fix the rent payable in respect of such holding with reference to such increase or diminution:

Provided that such order shall not bar the landlord's claim to enhance the rent of such holding on other grounds allowed by this Act.

16. The rent of land assessed to land-revenue, shall not be fixed for a term exceeding the period of the settlement of such land.

Agreement fixing rent on revenue-paying lands beyond term of settlement, voidable.

All agreements made in contravention of this section shall, as regards the amount of rent, be voidable at the will of either party.

17. In all cases in which a tenant has paid rent in kind, or on the estimated value of a portion of the crop, or by rates varying with the crop, or partly in one of such ways and partly in another or others, the landlord or tenant may apply to commute such rent to a fixed money rent. Such application shall be made,

Rents payable in kind may be commuted.

while the settlement of the district in which such tenant's holding is situate is in progress, to a Settlement-officer; and,

at any other time, to any revenue-officer specially empowered by the Chief Commissioner in this behalf.

On the receipt of such application, such officer shall determine the sum to be paid as money rent and shall order that the tenant shall pay, in lieu of paying his rent in kind or as aforesaid, the sum so determined. If the application is opposed, such officer may, for reasons to be recorded by him in writing, refuse to grant the same.

18. Any tenant not holding under a lease for a fixed period may, at the end of any agricultural year, surrender his holding, or, with the consent of his landlord, any part thereof. But notwithstanding such surrender he shall continue to be liable for the year next following the date of such surrender for the rent of the holding or part surrendered, unless—

Surrender of holdings.

- he gives to his landlord, at least thirty days before the end of such agricultural year, notice in writing of such surrender; or
- he takes a new holding in the same village from the same landlord; or
- he ceases, at least thirty days before the end of such year, to reside in the village in which the surrendered holding is situate; or
- the landlord himself cultivates such holding or lets it to another tenant.

19. The produce of a holding in the occupation of a tenant shall be hypothecated for the rent payable in respect thereof, and, if such produce is attached and sold in execution of a decree,

Hypothecation of produce for rent.

the Court executing the decree shall apply the nett proceeds of the sale in the first instance to satisfy the landlord's claim (if any) for sums due to him in respect of the rent of such holding for the year immediately preceding the attachment, and for the instalment of rent which falls due next after the usual period of harvesting the produce attached.

20. Where an arrear is due from any tenant in respect of his holding, the landlord may, by notice, prohibit the removal of the produce of such holding.

Act XII, 1881, a. 58. No such prohibition shall be made in respect of any sum claimed in excess of the rent payable by the tenant for such holding in the preceding year, unless the rent has been enhanced in accordance with the provisions of this Act, nor in respect of an arrear which has been due for a longer period than one year.

No such prohibition shall be made more than once in respect of the same produce.

21. Every notice under section twenty, shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is said to be due, and, when a sum in excess of the rent payable by the tenant in the last preceding year is claimed, the decree, order or agreement, as the case may be, for the payment of such sum.

The notice shall be served on the tenant, or other person who may be in charge of the produce on his behalf, and shall remain in force until the rent specified in such notice is paid, or, if such rent is not paid, until the expiry of twenty-eight days after such notice is so given.

22. Notwithstanding such notice, the tenant may reap, gather or store the produce of his holding, and do all other such acts as may be necessary for the due preservation of the same.

23. Any tenant on whom a notice in respect of the produce of his holding has been served under section twenty, and who, except for any of the purposes mentioned in section twenty-two, while such notice is in force, removes, attempts to remove, or abets the removal of, such produce from the place where it was standing, deposited or stored when such notice was served, and

any landlord who distrains or attempts to detain the produce of any holding, or prevents, or attempts to prevent, otherwise than in accordance with this Act, the removal of any produce of a holding by the tenant thereof, shall be punished with fine which may extend to five hundred rupees.

XII, 1881, a. 13. Commission for dividing or estimating crops. 24. Whenever rent is taken by division of the produce, or by estimate or appraisal of the crop, if either the landlord or the ten-

ant neglects to attend, either personally or by agent, at the proper time for making such division, estimate or appraisal, or if there is a dispute regarding the division of the said produce, or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as such officer thinks fit, directing him to divide, estimate or appraise the crop.

25. When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section twenty-four, such officer may, in his discretion, direct such Commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting such assessors (if any), and the procedure to be followed in making such division, estimate or appraisal.

The Commissioner so appointed shall make the division, estimate or appraisal, in accordance with such instructions.

26. When a crop has been estimated or appraised under the foregoing provisions, such estimate or appraisal shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued. Such Revenue-officer shall consider the Commissioner's report, and after such hearing and enquiry (if any), as he may think necessary, shall pass order thereon either confirming or varying the estimate or appraisal, and the rent shall be payable in accordance with such order.

27. In sections nineteen to twenty-four (both inclusive) the produce of a holding means—

- (a) crops and other products of the earth standing or ungathered on such holding;
- (b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on such holding or a threshing-ground, or stored in the homestead of the village in which such holding is situate, or in which the tenant, whose holding it is, resides.

B.—Of Absolute Occupancy-tenants.

28. All tenants who, on the day when this Act comes into force, occupy any holding in respect of which they have been recorded in any record-of-rights made before such day as "absolute occupancy-raiyats," or in terms equivalent thereto, shall be deemed to be absolute occupancy-tenants of such holding.

29. The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at the settlement of the district in which such hold-

ing is situate, and the rent so fixed, shall not be enhanced during the currency of such settlement, except under the provisions of section fourteen or section fifteen.

The rent payable in respect of his holding by any such tenant, when this Act comes into force, shall be deemed to have been fixed at the last preceding settlement of the district in which his holding is situate.

New:
Bill, no. 81,
82.

30. The right of an absolute occupancy-tenant in his holding shall devolve as if it were land, and shall be transferable by mortgage or sale or gift. Any mortgage of such right for a longer period than fourteen years made, after this Act comes into force, shall be deemed for the purposes of this Act to be a sale.

If an absolute occupancy-tenant intends to transfer his right in his holding by sale or gift, he shall give to his landlord a written notice of such intention, and the landlord may thereupon—

(a) within one month from the receipt of such notice, claim to purchase such right, at a price equal to five times the yearly rent payable in respect of the holding; or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to such rent for one year, and such sum shall be a charge on the holding sold.

Any transfer made in contravention of this section shall be void.

New.

31. An absolute occupancy-tenant shall not be liable to be ejected from his holding by his landlord as such for an arrear of rent or for any cause.

The right of such tenant in his holding shall be deemed to be hypothecated to the landlord for the rent thereof.

New.

32. When the right of an absolute occupancy-tenant in his holding is sold by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall, in respect of such holding, have the same rights as are reserved to him by section thirty in the case of a private sale.

C.—Of Occupancy-tenants.

Bill, no. 75.

33. All tenants who, when this Act comes into force, have held the same land continuously for twelve years, otherwise than as absolute occupancy-tenants or sub-tenants, have a right of occupancy in, and shall be deemed to be occupancy-tenants of, such land; Provided that such land is not

(a) sir-land, or

(b) held in lieu of wages, or

(c) held under a written lease in which it is agreed that a right of occupancy in such land

shall not be acquired, or that the tenant shall quit the land at the termination of such lease.

Explanation I.—The occupation of the person from whom the tenant inherited his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

Explanation II.—When, by the custom of any village the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with such custom, from time to time, received in exchange for land previously held by him shall, for the purpose of calculating, under this section, the period of twelve years, be deemed to be the same land as the land which he held prior to such exchange.

34. When the rent of the holding of an occupancy-tenant has been fixed by agreement or under this Act, or under any Act hereby repealed, such rent shall not be enhanced until the expiry of ten years from the day on which it was so fixed, except when the settlement of the district in which such holding is situate is in progress, or under the provisions of section fourteen or section fifteen.

35. When any occupancy-tenant dies, his right in his holding shall devolve as if it were land: Provided that no collateral relative of such tenant shall be entitled to inherit such right, unless at the death of such tenant he was a co-sharer in the holding.

No right of occupancy shall be transferable in execution of a decree or otherwise than by voluntary transfer between persons in favour of whom, as co-sharers, such right originally arose, or who have become, by succession, co-sharers therein.

36. Subject to the provisions of section thirty-four, the rent payable by an occupancy-tenant may be fixed on the application either of the tenant or his landlord,

(a) when the settlement of the district in which such holding is situate is in progress, to a Settlement-officer;

(b) during the currency of the settlement of such district, to a Revenue-officer.

On such application the Settlement or Revenue-officer, as the case may be, may fix the rent at a rate, not more than three-fourths of the rate usually paid by ordinary tenants of holdings situate in the same or adjoining tahsils, for land of similar quality with like advantages.

When the land in respect of which an application is made under this section, has been improved in accordance with this Act by the agency or at the expense of the tenant of such land, the quality and advantages of such land shall, for the purposes of this section, be deemed to be the quality and advantages had and enjoyed by such land immediately before such improvements were made.

20. **37.** No occupancy-tenant shall be ejected from his holding, except in execution of a decree of a Civil Court.

(a) in a suit for arrears of rent; or,

(b) in a suit for compensation for diverting the land to non-agricultural purposes or for some other act or omission which by custom or contract not inconsistent with this Act or with any other law for the time being in force renders him liable to be ejected.

a. 76. **38.** A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging such land in accordance with such custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

a. 77. **39.** If a tenant having a right of occupancy in any land ceases to hold such land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that such tenant has accepted such other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

D.—Of Sub-tenants.

40. A tenant who holds land from another tenant, is a sub-tenant of such land.

41. A sub-tenant shall hold on such terms as may be agreed upon between him and his landlord.

42. No sub-tenant shall be entitled to retain his holding after the determination of his landlord's interest in the land comprised therein; nor shall he have any claim, for compensation or otherwise, against any one but his own landlord on account of any loss arising to him from such determination.

E.—Of Ordinary Tenants.

a. 55. **43.** All tenants who are not absolute occupancy-tenants or occupancy-tenants or sub-tenants, are ordinary tenants.

a. 56. **44.** An ordinary tenant shall pay such rent as may, from time to time, be fixed by agreement between him and his landlord:

Provided that, after the rent has been so fixed, it shall not be liable to be changed, except under the provisions of section fourteen or section fifteen, or until the expiry of seven years from the date when it was so fixed.

45. An ordinary tenant shall not be ejected from his holding, except under a decree of a Civil Court, on one or other of the following grounds:

(a) that he has refused to agree to an enhancement of rent demanded by his landlord, in accordance with the provisions of this Act;

(b) that the land is needed for the execution of some work of permanent and general benefit to the village in which such land is situate or to the residents thereof;

(c) any ground mentioned in section thirty-seven clause (a) or clause (b).

46. An ordinary tenant who is ejected, under clause (a) or clause (b) of section forty-five from his holding shall be entitled to receive from his landlord compensation for disturbance.

Such compensation shall be in addition to any compensation due to him hereunder on account of improvements, and shall amount,

(a) if the tenant is ejected under clause (a) of section forty-five, to a sum equal to ten times the yearly increase of rent demanded from him;

(b) if the tenant is ejected under clause (b) of section forty-five, to a sum calculated at the rate of one year's rent of the land from which he is ejected, for every year during which he has occupied such land, subject to a maximum limit of five years' rent.

47. The right of an ordinary tenant in his holding shall not be transferable, except with his landlord's consent, and, where it has not been transferred, shall cease to exist at the death of such tenant: Provided as follows:—

(a) the representative (if any) of a deceased ordinary tenant shall be entitled to occupy the holding of such tenant until the end of the agricultural year in which he died;

(b) if such representative be ejected, he shall be entitled to such compensation for improvements as such tenant would have been entitled to, had he been ejected;

(c) when two or more persons have jointly cultivated the same holding as ordinary tenants, the right shall not cease to exist until the death of the last survivor of such persons.

CHAPTER III.

OF IMPROVEMENTS AND COMPENSATION THEREFOR.

48. On the holding of an absolute occupancy-tenant, the tenant, and on the holding of any other tenant, the landlord of such tenant, shall be entitled to make improvements.

If a landlord or tenant, not being so entitled, desires to make improvements on a holding, he shall proceed in such manner as the Chief Commissioner may, from time to time, by rule direct.

Bill, s. 40:
Cl. 33 & 34
Vid. c. 46,
s. 4.

49. Every tenant who is ejected from his holding shall be entitled to compensation for improvements made by him or the persons under whom he claims, and for which compensation has not already been made.

Whenever a Court makes a decree or order for the ejection of a tenant, it shall determine the amount of compensation due under this section to such tenant for improvements, and shall make the order of ejection conditional on the payment of such amount to the tenant.

No compensation under this section for an improvement, shall be claimable in any of the following cases, namely:—

(a) where the tenant has made the improvement in contravention of any rule made under section forty-eight and for the time being in force;

(b) where the tenant, having contracted not to make such improvement without giving the landlord reasonable notice to make it, has made it without giving such notice.

Improvements made by a tenant before this Act comes into force, in lands other than sir-land, shall be deemed to have been made in accordance with rules made under section forty-eight, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Bill, s. 41.

50. In estimating the compensation to be awarded under section forty-nine for an improvement, the Court shall have regard—

(a) to the labour and capital expended by the tenant in making such improvement;

(b) to the amount by which the letting value, or the produce of the holding or the value of such produce is increased by such improvement;

(c) to the amount for which the improvement could have been made by the landlord; and

(d) to any reduction or remission of rent made by the landlord to the tenant in consideration of such improvement.

Bill, s. 42.

51. Compensation for improvements may be made in such manner as may be agreed upon by the landlord and the tenant, or may be paid in money by such instalments (if any) as the Court thinks fit.

CHAPTER IV.

JURISDICTION AND PROCEDURE.

Bill, s. 52.

52. No Court other than the Court of a Revenue-officer shall take cognizance of any dispute or matter in which any application of the

nature mentioned in this section might be made namely:—

(a) applications for the appointment of a receiver of rent (section nine);

(b) applications for permission to deposit rent in court (section ten);

(c) applications to enhance rent on account of improvements made by, or at the expense of, the landlord (section fourteen);

(d) applications to fix the rent of a holding the area of which has been increased or diminished (section fifteen);

(e) applications for the commutation of rents paid in kind (section seventeen);

(f) applications for a commission to divide, estimate or appraise a crop (section twenty-four);

(g) applications to fix the rent payable by an occupancy-tenant (section thirty-six);

(h) applications relating to such other matters as Revenue-officers are empowered to deal with under this Act.

On any such application being made to the Court of a Revenue-officer it may, subject to the provisions herein contained, grant such relief as the nature of the case requires.

53. In disposing of the matters referred to in section fifty-two, Revenue-officers shall, as nearly as may be practicable, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881.

From every order passed by a Revenue-officer in respect of any such matter, an appeal shall lie as if such order had been passed by such officer under the said Land-revenue Act.

54. Applications to fix the rent of an occupancy-tenant may be made, subject to the provisions of section thirty-four, at any time during the period of such tenant's occupation.

All other applications may be made at any time during the occupation of his holding by the tenant by or in respect of whom such applications are made.

55. In suits under this Act, the Code of Civil Procedure shall apply, as far as may be, to all proceedings for which no special procedure is herein provided.

56. Deputy Commissioners shall, as such, exercise all the powers conferred on a Revenue-officer by this Act.

The Chief Commissioner may, from time to time, confer upon any other Revenue-officer, either by name or by virtue of his office, all or any of such powers.

100. **57.** Except as provided in section fifty-two, Jurisdiction of Civil the Civil Courts shall have jurisdiction in all suits or proceedings between landlord and tenant: Provided that—
- (a) no Judge of a Civil Court of original jurisdiction shall, unless he is also a Revenue-officer, hear any suit between a landlord and a tenant regarding any matter dealt with by this Act; and
- (b) such suits shall be heard and determined only in such Courts, competent to try the same, as the Chief Commissioner may, from time to time, direct.
101. **58.** The Chief Commissioner may, from time to time, direct, that all suits, or any specified class of suits, between landlord and tenant shall not be registered in the registers kept under the Code of Civil Procedure for the registration of civil suits, but in such other separate registers as he may prescribe.
102. **59.** In suits under this Act between landlord and tenant, the plaintiff shall, in addition to the matters mentioned in section fifty of the Code of Civil Procedure, specify the area of the land, and, where the fields, comprised in the holding to which the suit relates, have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which such rent is payable; and, in suits for compensation for improvements, an accurate valuation and description of the improvements.
- When the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate and sufficient description of such land and its boundaries shall be given in the plaintiff.
103. **60.** In suits and applications under this Act, the fees of a legal practitioner shall not be allowed as costs, unless the Court considers, for reasons to be recorded by it in writing, that such fees ought to be allowed.
- Legal practitioners' fees not allowed, unless for special reasons.
107. **61.** No set-off shall be allowed in any suit under this Act, unless the amount claimed as a set-off has been determined by a decree or order of a competent Court.
- Set-off when allowed.
108. **62.** In suits under this Act, for arrears of rent, interest on such arrears may be allowed up to judgment, at such rate not exceeding twelve per cent. per annum as the Court thinks fit.
- Interest on arrears.
110. **63.** When any such suit is decided, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class, as defined in the Central Provinces Courts' Act, 1865, the decision shall not be subject to appeal, unless—
- (a) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or
- (b) a question relating to a title to land, or some interest in land, has been determined as between parties having conflicting claims thereto.
- 64.** No suit for an arrear of rent shall be instituted after three years from the date when the arrear became due; and no other suit under this Act shall be instituted after one year from the date when the cause of action accrued.
- Limitation of suits.
- No process of execution shall be issued on a decree under this Act after three years from the date of such decree, or, in the case of a decree for money, after three years from the date on which the money, to recover which execution is applied for, became payable under the decree.
- 65.** If a decree for an arrear of rent is passed against a tenant other than an absolute occupancy-tenant, and remains unsatisfied at the end of the agricultural year in which such decree was passed, the landlord may apply to the Court, having authority to execute such decree, to eject such tenant; and the Court may thereupon cause a notice to be served on such tenant, informing him that if he does not pay the amount due under the decree within thirty days from the receipt of the notice, he will be ejected from his land.
- Ejectment for non-payment of an arrear due under a decree.
- If such amount be not so paid, the Court may, on proof of the service of such notice, eject such tenant from the land in respect of which the amount is due, or may allow the tenant such further period not exceeding thirty days as to it seems fit and may on the expiry of such further period, if such amount be not paid, eject him.
- 66.** Where, in answer to a suit for an arrear of rent, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period for which the arrear is claimed has been diminished or destroyed by drought, hail or other calamity beyond his control, the Court in its decree may make such deduction from the amount claimed by the landlord, and direct payment of the amount decreed in such instalments (if any), as it may think fit, and may order that such decree shall not be executed by ejectment of the tenant from his holding.
- Power of Court to deal with cases of drought or other calamity.
- In making such decree the Court shall have regard to—
- (a) the value of the produce of the holding for the whole agricultural year in which the arrear accrued;
- (b) the proportion which the amount of rent payable for such year by the tenant bears to such value.
- If in any such suit it appears that the land-revenue of the village in which such holding is situate has been suspended or remitted on account of drought or other calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that, in the case of suspension, the produce of the holding has been diminished, and, in the case of remission, that such produce has been destroyed, by such calamity.
- Bill, s. 10.

N.W.P.
Rent Act,
s. 119.

67. Whenever a decree is given for the ejectment of a tenant or the cancellation of his lease, on account of any act or omission by which the land in his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it thinks fit, allow him to repair such damage within one month from the date of the decree, or order him to pay such compensation within such time, or may make such other order in the case, as the Court thinks fit. If such damage be so repaired or compensation so paid, or order obeyed, the decree shall not be executed.

New.

68. When a landlord wishes to eject, under section forty-five, clause (b), an ordinary tenant, or to enhance his rent without his consent, such landlord shall serve through the Civil Court a notice on such tenant, on or before the thirty-first day of December next preceding the agricultural year in which such landlord desires to take possession of the land, or in which the enhancement is to take effect.

New.

69. When a Civil Court passes under clause (b) of section forty-five a decree for the ejectment of an ordinary tenant, it shall in its decree state the amount payable to the tenant as compensation under section forty-six, and such decree shall not be executed until the sum so payable has been deposited in Court by the landlord.

New.

70. If an ordinary tenant has been ejected under clause (b) of section forty-five from his holding, and the landlord within one year from the date of such ejectment fails to use proper diligence in the execution of the work for which such holding was taken, the Court, on the application of such tenant and on his refunding the sum paid to him under section forty-six as compensation, or so much of it as the Court may direct, shall reinstate him in the holding.

New.

71. When an ordinary tenant, on whom a notice of enhancement of rent has been served under section sixty-eight, refuses to agree to pay the enhanced rent, the landlord may institute a suit for ejectment in the Civil Court on or before the fifteenth day of March next after the date of such refusal.

Thereupon the Court shall fix a date for hearing the case, and shall issue a notice to the tenant, summoning him to appear on such date, and stating the yearly increase of rent asked by the landlord and the sum payable to the tenant as compensation under section forty-six, clause (a).

New.

72. On the appearance of the parties on the date fixed, the Court shall require the tenant to agree, or refuse to agree, to pay the enhanced rent.

If he agrees to pay such rent, his agreement shall thereupon be recorded, and he shall be liable to pay the enhanced rent from the commencement of the agricultural year next following the date of such agreement.

If he refuses, the Court shall pass a decree for his ejectment on condition that within fifteen days from the date of the decree the landlord deposits in Court the sum payable to the tenant as compensation under section forty-six, clause (a).

73. If such sum is so deposited, the order of ejectment shall be made absolute and the sum deposited shall be paid to the tenant. If such sum is not so deposited, the decree shall become null and void, and the tenant shall remain in occupation of his holding at the rent previously paid by him.

74. The following rules shall be applicable in the case of every tenant ejected from a holding in accordance with the provisions of this Act—

(a) when the tenant has, previous to the date of his ejectment, sown or planted crops in any land comprised in such holding he shall be entitled, at the option of the landlord, either to retain possession of such land and to use it for the purpose of tending and gathering in such crops; or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing such land and sowing, planting and tending such crops;

(b) when the tenant has, previous to the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in such land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing such land:

Provided that no tenant shall be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after proceedings had been taken by the landlord for his ejectment, he has cultivated or prepared such land contrary to local usage.

75. When a landlord elects, under section seventy-four, clause (a), to allow a tenant to retain possession of any land for the purpose specified in that clause, such tenant shall pay to such landlord, for the use and occupation of such land during the period for which he is allowed to retain possession of the same, such rent as the Court may deem reasonable.

76. Notwithstanding the provisions of section sixty-one, in all suits for ejectment, the Court shall inquire into and determine all claims under this Act, by the landlord against such tenant, or by such tenant against the landlord.

s. 55.

77. When it appears to a Court making such inquiry that the amount payable under this Act by the landlord to the tenant exceeds the amount so payable by the tenant to the landlord, it shall, unless the landlord and tenant come to an arrangement regarding the payment of such excess sum, fix a time within which it must be paid into Court.

If such payment is made within the time fixed, the Court shall eject the tenant;

and if such payment is not so made within such time, it shall refuse to eject the tenant.

s. 60.

78. All decrees for ejectment under this Act shall take effect from the beginning of the agricultural year next following the date of the order or decree, and shall be made subject to the conditions specified in sections forty-nine and seventy-four.

s. 53.

79. If any landlord or tenant desires that the extent of any holding should be ascertained, or that evidence relating to any improvement made in respect thereof, or to the state of such holding at any specified time, should be recorded, he may apply to a Revenue-officer, and such officer shall thereupon make, or cause to be made, such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, or shall record such evidence, as the case may be:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

CHAPTER V.

MISCELLANEOUS.

s. 45 Vic.,
p. 49 a.

80. Every provision contained in any lease or contract of tenancy or other contract, which provision is inconsistent with any of the provisions of this Act, or whereby a tenant agrees not to make, or to be ejected if he makes, improvements on his holding, or to forego any claim to compensation to which he is entitled hereunder, shall be void.

Provided that nothing in this section shall affect any agreement or lease whereby—

(a) waste-land is let for the first time, in so far as such agreement or lease fixes the rent of such waste-land for any period not exceeding the term of the current settlement;

(b) any tenant is secured in the enjoyment of rights greater than those given to tenants of his class under this Act.

Certain entries in record-of-rights to be void.

81. All entries in the record-of-rights of any village providing—

(a) that landlords shall be entitled to prevent tenants from making, or to eject them for making, improvements on their holdings, or to demand increased rent from them in respect of any such improvements; or

(b) that tenants ejected from their holdings shall not be entitled to compensation for improvements in cases in which they would, under this Act, be entitled to such compensation,

shall be void.

Cases in which ex-proprietors become occupancy-tenants of their sir.

82. Every person whose proprietary rights in land are, after this Act comes into force, transferred in any of the following cases:—

(a) when he sells such right, without expressly agreeing to transfer his right to cultivate sir-land contained in the land;

(b) when such rights in land are sold for an arrear of land-revenue;

(c) when such rights are sold in execution of any decree which does not expressly convey his rights in the sir-land contained in the land,

shall have the rights of an occupancy-tenant in the land cultivated by him as sir at the date of such transfer.

Rules by Chief Commissioner.

83. The Chief Commissioner may, from time to time, make rules, consistent with the provisions of this Act, for the guidance of all persons in matters connected with the enforcement thereof.

SCHEDULE.

(See section 2.)

ACTS REPEALED.

Number and year of Act.	Short title.
Act X of 1859	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.
Act XIV of 1863	To amend Act X of 1859.
Act XXII of 1872	To explain and amend Act X of 1859.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

b f

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882, and was referred to a Select Committee:—

No. 6 of 1882.

A Bill to provide for the grant of licenses to Pilots in British Burma and for investigating certain charges against them.

WHEREAS it is expedient to provide for the grant of licenses to pilots in British Burma, and for investigating certain charges against them; It is hereby enacted as follows:—

1. This Act may be called "The British Burma Pilots Act, 1882".
It extends to the territories for the time being administered by the Chief Commissioner of British Burma;
and it shall come into force at once.

2. In this Act—
"Port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1875, is for the time being in force.

Licensing of Pilots.

3. The Chief Commissioner may, from time to time, appoint competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and to make rules for the licensing of pilots.

(a) for the conduct of such examinations and for the qualifications to be required;
(b) for the grant to qualified persons of licenses to act as pilots; and
(c) for the fees to be paid for such examinations and licenses.

4. No person shall act as a pilot at any port, unless he holds a license granted under section three, authorizing him to act as a pilot at such port.

5. Any person acting as a pilot in contravention of the provisions of section four shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Investigations into charges against Pilots.

6. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, by notification in the *British Burma Gazette*, make rules to regu-

late the conduct of pilots licensed hereunder in all matters connected with the performance of their duties as such pilots.

Any such rule may contain a provision that a pilot committing a breach of such rule shall be punished with the suspension or cancellation of his license, or with the change of his license from a higher to a lower grade.

7. If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed hereunder with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section six, he may direct a Court to be constituted, under this Act, at a port or nearest to the place at which it may be convenient for the parties and witnesses to attend, and shall then transmit a statement of such grounds to such Court and direct such Court to make an investigation into such charge.

The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate the powers conferred on him by this section to any person at any port.

All proceedings of any person in exercise of the powers so delegated shall be subject to the confirmation of the Chief Commissioner.

8. Every Court constituted under this Act shall consist of a President sitting with three assessors.

9. The President shall be such person as the Chief Commissioner, by notification in the *British Burma Gazette*, appoints in this behalf, either generally or for any specified case. Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

10. One of the said assessors shall be a master of a sea-going vessel lying in the port at which the investigation is to be made; another shall be a merchant residing at such port; and the third shall be a pilot of not less than five years' service.

11. The assessor who is the master of a sea-going vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the President.

The other assessors shall be summoned by the President in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette*. If there are no such lists, or if it is impracticable to procure the attendance of two persons, one of whom is named in such list of merchants, and the other in such

Act VII
1880, s. 68.Local Government to
appoint examiners.Act VII
1880, s. 69.No person to act as
pilot without license.Act VII
1880, s. 70.Penalty for acting
without license as pilot.Act VII
1880, s. 71.Chief Commissioner
may make rules to regu-
late conduct of pilots.

list of pilots, such other assessors or assessor, as the case may be, shall be appointed and summoned by the President.

Draft s. 12. 12. The assessors shall receive such fees as the
 Fee to be paid to Chief Commissioner may,
 assessors. from time to time, by rule
 prescribe.

Draft s. 20. 13. Before commencing any investigation under
 Cf. I. M. S. Bill
 (No. 111), s.
 141, para. 2. this Act the Court shall
 Copy of charge or re- cause the pilot charged to
 port to be furnished to be furnished with a copy of
 pilot accused or con- the statement transmitted,
 cerned. under section seven, to such Court by the Chief
 Commissioner.

Draft s. 18. 14. For the purpose of an investigation under
 Cf. I. M. S.
 Bill (No. 111),
 s. 142. this Act the Court may sum-
 Person charged to be mon such pilot to appear
 heard. before it and shall give him
 a defence, either in person or otherwise.

Draft s. 18. 15. For the purpose of any investigation under
 Cf. I. M. S.
 Bill (No. 111),
 s. 142. this Act the Court shall, so
 Powers of the Court far as relates to compelling
 as to evidence and regu- the attendance, and to the
 lating proceedings. examination, of witnesses, the production of docu-
 ments, and the regulation of the proceedings, have
 the same powers as are exercisable by the principal
 Court of original criminal jurisdiction for the
 place at which the investigation is made.

Draft s. 21. 16. Upon the completion of the investigation the
 Decision of Court. Court shall give its decision.
 Such decision shall be accord-
 ing to the opinion of the majority of the members
 of the Court, or, if the Court is equally divided,
 according to the opinion of the President and
 the member with whom he concurs. In the latter
 case, any member who does not concur in the deci-
 sion of the Court may separately record his opinion.

Draft s. 22. 17. If, by such decision, the pilot is found
 Sentence of Court, if guilty of the charge, or of
 the accused be found any one or more of the
 guilty. charges, made against him,
 the President shall sentence him,

(a) if the act or omission of which the pilot has
 been found guilty is an act or omission in breach
 of a rule made under section six, to such penalty as
 may be prescribed by such rule, or

(b) if the act or omission of which the pilot has
 been found guilty is any other act or omission, to
 such penalty, by way of suspension or cancellation
 of license, or by way of change of license from a
 higher to a lower grade, as the President thinks fit.

18. If, by such decision as aforesaid, the pilot
 is found not guilty of the
 Acquitment. charge or charges made
 against him, the President shall declare him ac-
 quitted of the same.

19. Every sentence passed, under section seven-
 No sentence to be final teen, by the President shall
 till confirmed by the be subject to the confirmation
 Chief Commissioner. by the Chief Commissioner,
 to whom the proceedings of the Court shall be
 submitted by the President.

20. The Chief Commissioner may, in his discre-
 The Chief Commis- tion, remit the whole or any
 sioner may remit sen- part of such sentence, or
 tence or mitigate pun- direct the substitution of any
 ishment. mitigated punishment in lieu
 of the punishment awarded by the said Court.

21. If the President is of opinion that the
 If decision of members decision of the majority of
 be manifestly contrary the members of the Court is
 to evidence or investi- manifestly contrary to the
 gation be otherwise in- evidence, or that the investi-
 sufficient. gation is otherwise insufficient, the President,
 instead of passing sentence on the pilot charged, or
 declaring him acquitted, as the case may be, may
 certify such opinion to the Chief Commissioner,
 and the Chief Commissioner may thereupon either
 order a new investigation before other assessors, or
 acquit the said pilot, as he thinks fit.

22. Notwithstanding the provisions herein con-
 Power of Chief Com- tained, when a charge of
 missioner to pass orders misconduct or incompetency
 on charge without hold- is made against any pilot
 ing investigation. licensed hereunder, the Chief
 Commissioner may, without holding an investiga-
 tion under this Act into such charge, pass such
 orders thereon as he thinks proper, and may sentence
 such pilot to such penalty as he might be sentenced
 to under section seventeen.

23. The Chief Commissioner may, from time to
 time, make rules to carry
 Power of Chief Com- into effect the provisions of
 missioner to make rules. this Act, with respect to the
 Court for making investigations into charges
 against pilots, and in particular with respect to—
 (a) the mode in which the President shall, under
 section eleven, summon the assessors;
 (b) the amount of the fees to be paid to the
 assessors; and
 (c) the procedure of the said Court.
 All such rules shall be published in the *British
 Burma Gazette*, and shall
 Publication of rules. thereupon have the force of
 law.

STATEMENT OF OBJECTS AND REASONS.

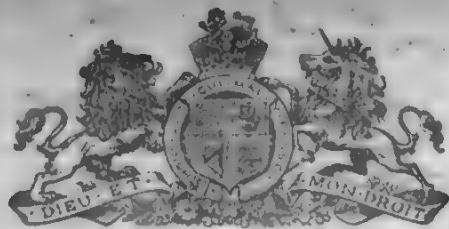
THE Pilot Rules at present in force at the ports of British Burma have not the force of law. So far as they relate merely to the appointment and duties of pilots, the want of legal sanction does not appear to be of importance, as these matters can be arranged for executively. The rules, however, provide also for the holding of courts for the trial and punishment of pilots guilty of misconduct in the performance of their duties, and in so far as they relate to such matters require something more than the authority of mere executive orders for their due enforcement. At Calcutta, where the subject of the appointment and duties of pilots has, as in Burma, been provided for executively, the subject of the trial and punishment of pilots has been dealt with by the Legislature, in a special Act (XII of 1859). It seems desirable that in Burma, also, this subject should be similarly dealt with.

The present Bill has, therefore, been prepared. It provides for the holding of investigations into charges of misconduct on the part of pilots. The constitution of the Courts of Enquiry, and the manner of selecting the members, are duly provided for, and power is given to the Chief Commissioner to make rules for conducting the proceedings. The authority of the Courts, and the confirmation required for their findings and orders, are also suitably defined. The Bill also prohibits any person from acting as a pilot in any port in British Burma, or in any navigable river or channel leading to any such port, unless he holds a license to act as a pilot granted by the Chief Commissioner. This seems desirable, as under the present law there is nothing to prevent a person from acting as a pilot without a license, except in ports to which section 38 of the Indian Ports Act, 1875, has been specially extended.

CALCUTTA;
 The 9th February, 1892.

WHITLEY STOKES.

R. J. CROSTHWAITE,
 Offg. Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 25, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882 :—

We, the undersigned members of the Select Committee to which the Bill to provide for the Relief of Encumbered Estates in the Jhānsi Division of the North-Western Provinces was referred, have considered the Bill and the papers noted in the margin, and have the honour to present this further report.

The Bill, as amended by us, was laid before the Council, with our report dated 4th February, 1881, and was sent to the Local Government for opinion.

The Government of the North-Western Provinces replied in their Secretary's letter, No. 629, dated 25th April, 1881. In that letter, the Lieutenant-Governor suggested an entirely new plan for dealing with the Jhānsi question, and forwarded a memorandum prepared by Mr. Bazett Colvin, and the rough draft of a new Bill.

It is this new Bill which we have now had under consideration.

The chief points of the present scheme, as laid down by Mr. Colvin, are as follows :—

- (1). The indebted zamindār, or an officer appointed for the purpose by the Local Government, may apply to the Commissioner of the Division, stating the debts and liabilities of such zamindār.
- (2). The Commissioner may refer the application to an officer styled "the Special Judge," who is to be appointed for this purpose, and who may, if the Local Government pleases, be one of the District staff.
- (3). On the receipt of an application by the Special Judge, all claims against the indebted zamindār are to be called in.
- (4). In dealing with the claims, the Special Judge is to have powers similar to those conferred on the Courts by the Dekkhan Agriculturists' Relief Act, No. XVII of 1879.
- (5). All proceedings, of whatever kind, taken in other Courts against the indebted zamindār, are to be for ever stayed; and he is to be disabled from contracting fresh liabilities, until certain conditions have been fulfilled.
- (6). The Special Judge will determine the amount of the debts and liabilities of the zamindār, and will ascertain the nature and amount of property possessed by him, other than his proprietary rights in land.
- (7). If the value of such property, other than as aforesaid, is sufficient to pay the debts, the Special Judge will give the creditors decrees, which they may execute through the ordinary Civil Courts.
- (8). If such value is not so sufficient, the Special Judge will submit to the Commissioner a report showing the amount of the debts due by the zamindār, and detailing the property, other than proprietary rights in land, belonging to such zamindār.

- (9). An arbitrary value is then to be put on the zamindár's proprietary rights in land; (1), for the purpose of a loan from Government, a sum equal to eight times the nett annual profits derived from such rights; (2), for the purchase of such rights by Government, a sum equal to sixteen times and two-thirds such nett annual profits.
- (10). If the debts certified by the Special Judge can be met by the proceeds of such other property as the indebted zamindár possesses, together with a sum equal to the loan value of his proprietary rights in land, the zamindár is to be asked if he will accept a loan from Government. If he accepts, the money is to be advanced from the public treasury, and the debts are to be paid. If he declines, the Commissioner may sell his proprietary rights by auction, to the extent necessary to meet the claims certified by the Special Judge.
- (11). When the zamindár accepts a loan, the Government will have a lien on his land. If he fails to repay the loan within the time laid down for that purpose by the Commissioner, his proprietary rights, or such part of them as may be necessary to cover the unpaid portion of the loan, shall vest in the Secretary of State for India in Council.
- (12). When the debts certified by the Special Judge, exceed in amount the aggregate value of the zamindár's other property and of his proprietary rights in land as estimated for the purpose of a loan, the zamindár is to be declared to be insolvent, and his proprietary rights in land are to be sold by auction.
- (13). Such rights will be put up for sale at the upset price of sixteen times and two-thirds the nett annual profits, and sold to the highest bidder above that sum. If there is no bid, the Commissioner will pay to the insolvent's estate a sum equal to sixteen times and two-thirds the nett annual profits. The debts will be paid off, so far as may be practicable, and the insolvent's proprietary rights in land will vest in the Secretary of State for India in Council.
- (14). In all cases in which the proprietary rights shall vest in the Secretary of State for India in Council, the zamindár will continue to hold his sir-land as an ex-proprietary tenant. And the same consequence ensues, as a matter of course, when his rights are sold on his refusal to accept a loan.
- (15). On the final completion of any of these proceedings, that is to say, when the zamindár's proprietary rights have been sold, or when they have vested in the Secretary of State for India in Council, or when the loan has been re-paid, the Commissioner will declare the disabilities imposed on the zamindár to be removed.

The zamindár then will be in this position. If he has taken a loan, he will be liable for the repayment of the loan, by instalments, with interest. He will have to pay those sums in addition to his land-revenue, but they will probably be less than the sums extracted from him by his creditors. He will have his sir-land to live upon, together with whatever remains to him out of his rental, after the payments of instalments of the loan, interest thereon, land-revenue and rates. He will be freed from all other liabilities and encumbrances, and, after the loan is re-paid, will be restored to the full enjoyment of his rights.

If he refuses the loan, he will lose his proprietary rights, in whole or in part, but he will be completely freed from debt, and will continue to hold his sir-land as an ex-proprietary tenant.

Such also will be his position if he is declared an insolvent.

We have made the following material alterations in the Bill, as drafted by Mr. Bazett Colvin:—

Firstly, Mr. Colvin provided that, if the debts, as found by the Special Judge, could be met by the proceeds of the sale of the zamindár's property, other than his proprietary rights in land, the Special Judge should give the creditors decrees and leave them to get satisfaction in ordinary course of law. He provided also that, in such case, the zamindár's disabilities were to cease.

It appears to us that the result of this proceeding would be to start the zamindár on a fresh career, with decrees hanging over him, to meet which he would probably raise fresh loans.

We have provided, therefore, that in these cases also the Special Judge shall send a report to the Commissioner, who will cause the property enumerated in the Special Judge's report, or a portion of it, to be sold. If the proceeds are sufficient to pay the debts as determined by the Special Judge, the Commissioner will pay such debts, and the zamindár will thereupon be discharged from all liabilities.

If the proceeds are not so sufficient, the Commissioner will cause the valuation of the zamindár's proprietary rights to be made, and the case will go on as contemplated by Mr. Colvin.

Secondly, we think that the value proposed to be put upon the zamindár's interest in the land is too high. It is probably three times as much as property of the kind in Jhánsí would fetch at public auction. We assent to the principle that the zamindár's creditors, whose contracts we propose to override, should be generously dealt with; but we do not think it is safe to advance more than six times the nett annual profits of the property as a loan, or to give more than ten times such profits for the purchase of such property.

The interest chargeable on loans advanced by Government under the Bill has been fixed at five per cent. simple interest, with the assent of the Financial Department. The Bill has been amended accordingly.

Thirdly, we think that, when the debts of the zamindár can be met with a loan, it is unnecessary to provide that his proprietary rights in land shall, on his failure to repay the loan, vest in the Secretary of State for India in Council.

The necessary corollary of this provision is that, when part of the loan has been re-paid, part only of the proprietary rights shall be forfeited. The result will be, that small parts of villages or shares in villages will belong to Government and much trouble will be given to the administration.

It seems to us better to provide that, on the occurrence of a default in the payment of any instalment of principal or interest, the whole sum due shall be deemed to be an arrear of land-revenue, and shall be recoverable as such.

This provision will give the Deputy Commissioner ample power to take possession of the defaulter's land, and, if necessary, will enable Government to sell the defaulter's proprietary rights under the land-revenue law.

The objection taken to this amendment is, that it will compel the district-officer to manage the land. But in any case, whether he assumes possession for a term of years as we propose, or whether the proprietary rights of the defaulter are vested in the Secretary of State for India in Council, some arrangement will have to be made for the management of the land and the collection of the rents. There will be no more difficulty in the one case than in the other.

The Bill appears to us now to be put in as simple a shape as is practicable.

We recommend that the Bill, as now amended, be published in the *Gazette of India* and in the local official *Gazette*.

C. H. T. CROSTHWAITE.

WHITLEY STOKES.

RIVERS THOMPSON.

E. BARING.

W. C. PLOWDEN.

The 16th March, 1882.

No. III. THE JHANSÍ ENCUMBERED ESTATES BILL, 1882.

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No. III.

A Bill to provide for the relief of Encumbered Estates in the Jhānsī Division of the North-Western Provinces.

WHEREAS many zamindārs in the Jhānsī Division of the North-Western Provinces are in debt, and their immoveable property is subject to encumbrances, and it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Jhānsī Encumbered Estates Act, 1882":
 Short title. and it shall come into force on the passing thereof.
 Commencement.
2. In this Act—
 Interpretation clause. "zamindār" means a proprietor of land or of any share in land assessed to revenue, and includes an ubāridār:
 "zamindār":
 "sir-land": and "sir-land" means—
 (a) land recorded as sir at the last settlement or revision of settlement of the district in which it is situate, and continuously so recorded since;
 (b) land continuously cultivated for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour;
 (c) land recognized by village-custom as the special holding of a co-sharer, or treated as such in the distribution of profits or charges among the co-sharers.

CHAPTER II.

APPOINTMENT OF OFFICERS.

3. The Local Government may, from time to time, by notification in the official Gazette, appoint, for any local area in the Jhānsī Division, a special Judge, who shall exercise the powers conferred, and perform the duties imposed, by this Act on such officer.

The Local Government may, at any time, by a like notification, suspend or remove any special Judge so appointed.
 Power to suspend or remove special Judge.

CHAPTER III.

OF THE APPLICATION AND PRELIMINARY INQUIRY.

4. At any time within twelve months after a special Judge is appointed for any local area, any zamindār owning land in such area, or such officer as the Local Government may, from

time to time, appoint in this behalf, may apply, in writing, to the Commissioner of the Jhānsī Division, stating that such zamindār is subject to debts or liabilities other than debts due, or liabilities incurred, to Government, or that his immoveable property is encumbered with debts and liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to him:

Provided that, when such zamindār is a disqualified proprietor within the meaning of section 194 of the North-Western Provinces Land-revenue Act, 1873, such application shall be made—

- (a) when his property is under the superintendence of the Court of Wards, by the manager of his property, with the consent of that Court; and
 (b) when his property is not under such superintendence, by the Deputy Commissioner of the district in which such property is situate.

The Local Government may, from time to time, by notification in the official Gazette, extend the time prescribed for making applications under this section.
 Power to extend time for making applications.

5. When any such application is made in the case of any zamindār, the Commissioner shall direct an inquiry to be made by the special Judge—

(a) into the nature and amount of such debts and liabilities other than debts due, and liabilities incurred to, Government; and

(b) into the sufficiency of such zamindār's property, whether moveable or immoveable, (exclusive of the property mentioned in the first proviso to section 266 of the Code of Civil Procedure), to discharge such debts and liabilities other than as aforesaid.

6. When an inquiry has been directed under section five, the applicant shall, within a period to be fixed by the Commissioner, submit to the special Judge a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints.

Such statement shall contain, so far as may be practicable,—
 Contents of statement.

(a) such particulars as the special Judge may require respecting the debts and liabilities, other than as aforesaid, to which the zamindār is subject, or with which his immoveable property or any part thereof is encumbered;

(b) the nature and value of the zamindār's property (exclusive of his proprietary rights in land and the property mentioned in the first proviso to section 266 of the Code of Civil Procedure); and

(c) the names and residences of his creditors, so far as they are known to, or can be ascertained by, such zamindār.

If any such statement contains any averment in which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code:

Provided that, when the application is made by an officer appointed under section four, or by the Deputy Commissioner, it shall not be necessary to verify such statement; but the zamindár shall, so far as may be practicable, within a period to be fixed by the special Judge, furnish such information regarding the matters mentioned in section six, clauses (a), (b) and (c), as such Judge may require.

CHAPTER IV.

PROOF OF DEBTS AND PROCEDURE OF SPECIAL JUDGE.

7. When the duly verified statement or the information referred to in section six has been submitted or furnished, the special Judge shall publish in the official Gazette, a notice in the vernacular language of the district, calling upon all persons having claims against the person or the property of the zamindár, by, or with respect to, whom the application was made, under section four, to present to the special Judge, within two months from the date of such publication, a written statement of such claims.

Provided that, when the claimant satisfies the special Judge that he had sufficient cause for not presenting such statement within such period, the special Judge may receive such statement within a further period of two months from the expiration of the original period.

The special Judge shall also cause copies of such notice to be exhibited at his own office, at the offices of the Commissioner of the Jhans Division and the Deputy Commissioner of the district in which the land of such zamindár is situate, and at some conspicuous place in the village where such zamindár resides.

8. After the publication of such notice, the following consequences shall ensue (namely):—

- (a) all proceedings then pending in any civil or revenue Court in British India, in respect of all debts and liabilities, other than as aforesaid, to which the zamindár is subject, or with which his immoveable property is encumbered, shall be for ever stayed; and all processes, executions and attachments issued by any such Court, and then in force, in respect of any such debt or liability, shall become null and void;
- (b) in respect of such debts and liabilities, no fresh proceedings, processes, executions or attachments shall, except as hereinafter provided, be instituted in, or issued by, any civil or revenue Court in British India;

(c) until the Commissioner has declared, as hereinafter provided, that the zamindár has ceased to be subject to the disabilities mentioned in this clause, such zamindár shall be incompetent to sell, mortgage, exchange, give or, without the consent of the Commissioner, lease, his proprietary rights in land or any part thereof.

9. Every claimant referred to in section seven shall, in the written statement of his claim, present full particulars thereof.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the special Judge along with such written statement.

If the document be an entry in any book, the claimant shall produce the book to the special Judge, together with a copy of the entry on which he relies. The special Judge shall mark the book, for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

If any document in the possession, or under the control, of the claimant is not delivered or produced by him, as required by this section, the special Judge may refuse to receive such document in evidence on the claimant's behalf, at the investigation of the case.

10. Every such claim (other than claims of the Government), not made within the time and in the manner hereby required, shall be deemed, for all purposes, and on all occasions, to have been duly discharged.

11. The special Judge shall hear the zamindár, or, when the application has been made on behalf of a disqualified proprietor, shall hear the manager of his property, or the Deputy Commissioner, as the case may be, in answer to each claim so made; and, if the amount of any such claim (other than a claim decreed by a competent Court) is disputed, shall inquire into the history and merits thereof from the commencement of the transactions between the parties, and shall, as hereinafter provided, determine the amount (if any) justly due to the claimant.

12. When the special Judge inquires, under section eleven, into the history and merits of a claim, he shall—

notwithstanding any agreement between the zamindár and the claimant, or the persons (if any) through whom they claim, as to allowing compound interest, or as to setting off the profits of mortgaged property in lieu of interest without an account, or otherwise determining the manner of taking the account, and

notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

open the account from the commencement of the transactions between the parties, and take that account according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken ;

(b) in the account of principal, there shall be debited to the zamindár such money as may, from time to time, have been actually received by him, or on his account, from the claimant, and the price of goods (if any) sold to him by the claimant, as part of the transactions between them ;

(c) in the account of principal, there shall not be debited to the zamindár any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure ;

(d) in the account of principal, there shall not be debited to the zamindár any accumulated interest which has been converted into principal at any statement or settlement of account, or by any contract made in the course of the transactions, unless the special Judge, for reasons to be recorded by him in writing, deems such debit to be reasonable ;

(e) in the account of interest, there shall be debited to the zamindár monthly simple interest on the balance of principal for the time being outstanding, at the rate allowed by the special Judge as hereinafter provided ;

(f) all money paid by, or on account of, the zamindár to the claimant or on his account, and all profits, service, or other advantages of every description received by the claimant in the course of the transactions, shall be credited first in the account of interest ; and, when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the zamindár in the account of principal :

Explanation—The advantages mentioned in this clause shall be estimated, if necessary, at such money-value as the special Judge may determine in his discretion, or with the aid of arbitrators appointed by him ;

(g) the accounts of principal and interest shall be made up to the date of making the claim ; and the aggregate of the balances (if any) appearing due on both such accounts against the zamindár at that date, shall be deemed to be the amount due at that date, except when the balance appearing due on the account of interest exceeds that appearing due on the account of principal, in which case double the latter balance shall be deemed to be the amount then due.

13. The interest to be awarded in taking an account, according to the rules set forth in section twelve, shall be—

(a) the rate (if any) agreed upon between the zamindár and the claimant, or the persons (if any)

through whom they respectively claim, unless such rate is deemed by the special Judge to be unreasonable ; or

(b) if such rate is deemed by the special Judge unreasonable, or if no rate was agreed upon, or, when any agreement to set off profits in lieu of interest without an account, entered into between the zamindár and the claimant, or the persons (if any) through whom they respectively claim, has been set aside by the special Judge, such rate as the special Judge deems reasonable.

14. If the amount so determined to be due cannot, in the opinion of the special Judge, be paid at once, he shall then proceed to rank the claims according to the order in which they shall be paid or discharged, and to fix the interest (if any) to be paid on the amounts thereof respectively from the date of the final decision thereon to the date of the payment and discharge thereof.

15. When the amount of the claims has been finally determined in the manner hereinbefore prescribed, the special Judge shall submit a report to the Commissioner, showing the nature and amount of the claims so determined, and also the nature and amount of all the zamindár's property (exclusive of his proprietary rights in land and the property mentioned in the first proviso to section 206 of the Code of Civil Procedure), which may be available for the payment or discharge of the same.

CHAPTER V.

PROCEDURE OF COMMISSIONER AND MODE OF LIQUIDATION.

16. On receiving such report, the Commissioner shall direct that the property reported by the special Judge, as available for the discharge of the claims determined by him, or any specified portion of such property, be sold by public auction, and, from the proceeds thereof, shall pay or discharge, so far as practicable, the amount of the said claims.

If such proceeds are not sufficient to pay or discharge in full such amount, the Commissioner shall direct the value of the zamindár's proprietary rights in land, to be ascertained in the manner following :—

For the purposes of a loan, the value of such rights shall be estimated to be a sum amounting to six times the nett annual profits of such zamindár.

For the purposes of purchase by Government, the value of such rights shall be estimated to be a sum amounting to ten times such nett annual profits.

Explanation—The expression "nett annual profits" means the aggregate amount—

(a) of the rents which a zamindár is entitled to receive as such annually from his tenants;

(b) of all profits received by him as zamindár, and of the rent which he would have to pay for his sir-land (if any), if he were an exproprietary tenant thereof,

after deducting, from such aggregate amount, the Government revenue and all rates payable by him, under the North-Western Provinces Local Rates Act, 1878, or any other Act for the time being in force.

17. When the value of the zamindár's proprietary rights has been ascertained as directed in section sixteen, the Commissioner shall proceed as follows:—

(a) If the sum at which the zamindár's proprietary rights in land have been valued for the purposes of a loan, is sufficient to pay or discharge the balance of the said claims, the Commissioner may, with the consent of the zamindár, direct such sum as may be necessary, not being more than the amount of such valuation, to be advanced from the public treasury as a loan to the zamindár, and shall, from the sum so advanced, pay or discharge in full the balance of the said debts and liabilities.

(b) If the zamindár does not consent to accept such loan, the Commissioner may direct that any portion, or, if necessary, the whole, of such rights, shall be sold in the manner hereinafter prescribed, in order to discharge such balance. Out of the proceeds of such sale, the Commissioner shall, so far as practicable, discharge such balance.

(c) If the sum at which the zamindár's proprietary rights in land have been valued, for the purposes of a loan, is not sufficient to discharge the balance of the said debts and liabilities, the Commissioner may order his proprietary rights in land to be sold, in the manner hereinafter prescribed.

The purchaser, under this section, of the zamindár's proprietary rights shall take the same free of all encumbrances created by such zamindár, or the person through whom he claims.

18. When an order for the sale of the proprietary rights of any zamindár has been made hereunder, the Commissioner may order such rights to be attached and taken under the management of the Deputy Commissioner, who shall have, for this purpose, the same powers as are conferred, for the management of a mahál, on a Collector by the North-Western Provinces Land-revenue Act, 1873, section one hundred and fifty-five.

Such management shall continue until such rights are sold hereunder.

19. All sales, under this Act, of proprietary rights in land, shall be made by public auction in the manner prescribed by the said North-Western Provinces Land-revenue Act, 1873, for the sale of immoveable property for arrears of land-revenue. If, at the public auction of any zamindár's proprietary rights in land, any bid be made for such rights above the sum at which they have been valued for the purposes of purchase by Government, such rights shall be sold to the highest bidder; and the proceeds of such sale shall be paid to the Deputy Commissioner or such officer as the Commissioner may direct. If no such bid be made, the Commissioner shall direct a sum of money equal to the amount of such valuation to be paid from the public treasury to the Deputy Commissioner or such officer.

20. The Deputy Commissioner or such officer, as the case may be, shall thereupon, subject to the control of the Commissioner,—

firstly—pay, from the money which he has received under section nineteen, the debts, fines and liabilities (if any) due or incurred by the zamindár to the Government;

secondly—pay all costs awarded against the zamindár by the special Judge or Commissioner;

thirdly—out of the balance of such money, pay or discharge, so far as may be practicable, the claims against the zamindár determined by the special Judge in the order in which they are ranked under section fourteen by such Judge;

fourthly—pay the surplus (if any) to the zamindár.

21. When a sum of money has been lent, under section seventeen, to a zamindár, and applied in payment or discharge of the claims against him, the following consequences shall ensue (namely):—

(a) his proprietary rights in land shall be deemed to be mortgaged to the Secretary of State for India in Council, until such loan shall have been fully paid off;

(b) he shall be bound to repay the amount of such loan, with interest thereon at the rate of five per cent. per annum, by yearly instalments, within such term, not exceeding ten years, as the Commissioner may prescribe;

(c) in the event of his failing to pay any such instalment of principal or interest on the day fixed for the payment thereof, the whole sum remaining due on account of principal or interest, or both, shall be recoverable as an arrear of land-revenue due by him.

22. When a sum of money has been paid from the public treasury, as provided in section nineteen, and applied towards paying or discharging the claims against

a zamindár, the following consequences shall ensue (namely) :—

(a) his proprietary rights in land shall vest in the said Secretary of State in Council ;

(b) in respect of his sár-land, the proprietary rights in which are, under this section, vested in the said Secretary of State in Council, the zamindár shall be deemed to be an ex-proprietary tenant holding such land directly under the Government.

Power to declare that zamindár has ceased to be subject to disabilities. 23. In each of the following cases (namely) :—

(a) when the amount lent, under section seventeen, to a zamindár has been repaid, together with the interest due thereon, or

(b) when such amount has been recovered from him as an arrear of land-revenue or has been remitted, in whole or in part, by the Local Government, or

(c) when the whole, or, where it is necessary to sell only a portion, such portion, of his proprietary rights in land has been sold under this Act to the highest bidder, or such rights have vested in the said Secretary of State in Council, under section twenty-two ;

the Commissioner shall declare that such zamindár has ceased to be subject to the disabilities mentioned in section eight, clause (c) :

Provided that in cases coming under clause (b) of this section, no such declaration shall be made without the previous sanction of the Local Government.

CHAPTER VI.

OF APPEAL AND REVISION.

24. An appeal against any decision or order, under this Act, of the special Judge shall lie to the Commissioner,

Appeals. if preferred within one month from the date of such decision or order :

Provided that when the Appellant satisfies the Commissioner that he had sufficient cause for not presenting the appeal within such period, such appeal may be admitted after the period prescribed by this section.

Subject to the power of revision next herein-after provided, the decision of the Commissioner on an appeal, under this section, shall be final.

25. The Board of Revenue or the Commissioner may, of its or his own motion, or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon, consistent with the provisions herein contained, as it or he thinks fit :

Provided that nothing in this section shall empower the Commissioner to pass any order reversing or modifying an order previously passed by the Board of Revenue.

CHAPTER VII.

MISCELLANEOUS.

26. The Local Government may, from time to time, make rules consistent with this Act—

(a) to regulate the procedure in all cases under this Act ;

(b) to declare what shall, for the purposes of this Act, be deemed to be the vernacular language of any specified district ; and

(c) generally to carry out the provisions of this Act.

Such rules shall be published in the official Gazette, and, when so published, shall have the force of law.

27. Every investigation conducted by the special Judge, with reference to any claim made to him under this Act, or to any matter connected with such claim, shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code ; and the special Judge shall be deemed to be a public servant within the meaning of the said Code.

28. For the purposes of compelling the attendance of witnesses and the production of documents the special Judge shall have the powers conferred on a Civil Court by the Code of Civil Procedure.

29. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith pursuant to this Act.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Report of a Select Committee, together with the Bill, as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882:—

We, the undersigned Members of the Select Committee to which the Bill to consolidate

- Preliminary Note by the Commissioner, Jabalpur Division, Central Provinces, dated 1st September, 1878 [Paper No. 1].
 Note by Officiating Commissioner, Nagpur Division [Paper No. 2].
 Commentary by Officiating Commissioner, Nagpur Division [Paper No. 3].
 Note by Officiating Judicial Commissioner, Central Provinces, dated 15th October, 1879 [Paper No. 4].
 From Settlement-officer, Sirsa, dated 25th August, 1880, and enclosure [Papers No. 5].
 „ Commissioner, Haidarabad Assigned Districts, No. 4640, dated 18th September, 1880 [Paper No. 6].
 „ Gopal Narayan Ghatge and other malguzars, Nagpur Division, dated 25th December, 1880, and enclosure [Papers No. 7].
 „ Lakshmi Narayana Pandit, Pleader, High Court, North-Western Provinces, dated 2nd March, 1881, and enclosure [Papers No. 8].
 „ Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 2283-112, dated 23rd January, 1881, and enclosures [Papers No. 9].
 „ Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 353-23, dated 1st February, 1881, and enclosures [Papers No. 10].
 „ Officiating Secretary to Chief Commissioner, Central Provinces, No. 3799-308, dated 10th October, 1881, and enclosures [Papers No. 11].

referred the Bill to a Committee composed of officers* belonging to the Central Provinces, whose report has been now under consideration. The amendments recommended by this Committee have received the unqualified support of the Chief Commissioner. They are of such a nature as to render it necessary to re-draft the Bill.

- * Mr. C. H. T. Crosthwaite, Judicial Commissioner.
 „ J. W. Neill, Commissioner, Nagpur.
 „ J. W. Chisholm, Officiating Commissioner, Narbada.

3. We have, accordingly, amended and re-cast the Bill, but the majority of us desire to reserve our opinion as to the expediency of making these amendments until the Bill has been republished in its present shape, and subjected to further criticism. The most important amendments, and those to which we desire to attract particular attention, are as follows:—

- (1.)—The Bill, as introduced, withdrew the power of making a distraint for rent, and practically compelled the landlord to sue a tenant on the produce of whose holding he wished to retain a lien for arrears of rent.

The Bill, as now amended, gives no right to distraint, but it maintains the landlord's lien on the produce for rent, and directs a Court executing a decree, other than for rent, by attachment and sale of the produce of a tenant's holding, to pay to the landlord, out of the proceeds of the sale, and before satisfying the decree-holder, any arrear of rent that may be due by the tenant, and likewise the instalment of rent falling due next after the usual date of harvesting the produce attached and sold.

It also allows a landlord, when an arrear is due to him, to prohibit the tenant, for a period of twenty-eight days, from removing the produce of the holding on which the rent is due. It is intended by this provision to give the landlord time to institute a suit and apply to the Court for an order to attach the produce. These provisions do not apply to rent due for a longer period than one year.

- (2.)—The Bill, as introduced, took away the right conferred at the settlement on those tenants who are known as absolute occupancy-tenants, of transferring their holdings.

The amended Bill maintains this class of tenants exactly in the position given to it at settlement.

- (3.)—The amended Bill stops the future growth of occupancy-right by operation of the twelve-year rule, but maintains in the enjoyment of that right those tenants who, at the passing of the Act, have acquired it.

- (4.)—The Bill, as introduced, established a class of protected tenants, the condition of protection being, *inter alia*, residence and cultivation of land in the village for five years. Tenants, who had not so qualified, it left to the landlord's discretion.

The amended Bill protects all ordinary tenants (*i. e.*, all tenants who have not absolute occupancy or occupancy-rights and are not sub-tenants) from capricious eviction.

- (5.)—The Bill, as introduced, provided for the determination of the rent of occupancy-tenants primarily on the basis of the settlement-rates and the customary rates paid by tenants of the same class; and fixed the rents so determined for the term of settlement, subject to enhancement or abatement on account of change in the value of the produce or in the productive power of the land.

It left the rent of protected tenants to be determined, in case of dispute, by the Courts, with reference to the rent paid by ordinary tenants. A rent so determined was only fixed from year to year.

The amended Bill adopts, for the determination of the rent of ordinary tenants, the principle of compensation for disturbance, giving the tenant from whom an increase of rent is demanded the option of agreeing to the enhancement, in which case his rent will be fixed for seven years, or of leaving the land, taking, as compensation, ten times the sum demanded as enhancement.

It provides that the rents of absolute occupancy-tenants shall not be raised during settlement.

It provides that the rents of occupancy-tenants, *i. e.*, those who have acquired rights under the twelve-year rule, shall be fixed at twenty-five per cent. below the rent paid by ordinary tenants for like land, and that, when the rent of such tenants has been fixed, it shall not be enhanced till after the expiry of a period of ten years.

In the case of all classes of tenants, the landlord is, at any time, entitled to an increase of rent if the productive power of the land has been increased by improvements made by such landlord, or if the area of the holding has been added to.

4. We recommend that the Bill, as now amended, be re-published in the *Gazette of India* and sent to the Local Government for publication in the local Gazette and translation into the vernacular languages; and that its re-consideration be postponed for a period of two months.

C. H. T. CROSTHWAITE.

WHITLEY STOKES.

W. W. HUNTER.

H. J. REYNOLDS.

The 16th March, 1882.

No. II. THE CENTRAL PROVINCES TENANCY BILL, 1882.

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SCHEDULE.—ACTS REPEALED.

No. II.

A Bill to Consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Central Provinces Tenancy Act, 1882":
Short title.

It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces, except those specified in the Scheduled Districts Act, 1874, Schedule I, Part VI;
Local extent.

and it shall come into force on such day as the said Chief Commissioner, with the previous sanction of the Governor General in Council, may by notification in the local official Gazette direct.
Commencement.

2. On and from such day the Acts mentioned in the schedule hereto annexed, shall be repealed so far as they relate to the territories to which this Act extends.
Acts repealed.

12. But nothing contained in this Act, or in any Act hereby repealed, shall affect the rights or liabilities of tenants or landlords in the districts of Nimár, Chánda and Sambalpúr, so far as such rights or liabilities have been determined by any order of the Governor General in Council made at the settlement of any such district.
12. 92. Saving of certain settlement conditions in the Chánda, Nimár and Sambalpúr districts.

All suits or applications instituted or made under any Act hereby repealed, and which, when this Act comes into force, are pending before any officer, before whom they would have been instituted or made, if this Act had been in force, shall, so far as may be, be deemed to have been respectively instituted or made hereunder.
Pending suits and applications.

3. In this Act, unless there is something repugnant in the subject or context,—
Interpretation-clause.

(1) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:
"land":

(2) "tenant" means a person who holds land of another person, and is, or, in the absence of a contract to the contrary, would be, liable to pay rent for such land to such other person. But it does not include a mortgagee or a person who takes a lease of unoccupied land for the purpose of sub-letting it, or of land already in the occupation of cultivators.
"tenant":

Where such person, at the time of taking a lease of such land, is a tenant of any land included therein, he does not by reason only of such lease cease to be a tenant of the land so included:

(3) "landlord" means the person of whom a tenant holds land, and to whom such tenant is, or, in the absence of a contract to the contrary, would be, liable to pay rent therefor; but when the right to receive rent or any other right which a landlord is entitled as such to exercise, is, for the time being, vested in a person other than the person of whom the land is held, such other person shall be deemed to be the landlord in respect of the right so vested:
"landlord":

(4) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:
"rent":

(5) "pay" and "payable" used with reference to rent, include "deliver" and "deliverable":
"pay" and "payable":

(6) "arrear" means an instalment of rent which is not paid on or before the date on which it is payable:
"arrear":

(7) "holding" means a parcel of land held by a tenant of a landlord under one lease or agreement:
"holding":

(8) "improvement" means, with reference to a holding, any work which adds to the letting-value of such holding, without diminishing the value of any other part of the estate of the landlord of whom such holding is held; which is suitable to such holding and consistent with the purpose for which it was let; and which, if not executed on the holding, is either executed directly for its benefit or is, after execution, made directly beneficial to it:
"improvement":

It includes the reclaiming, enclosing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells, and water-channels as are ordinarily made by tenants.
New

Explanation.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(9) "Revenue-officer" means any Revenue-officer appointed under the Central Provinces Land-revenue Act, 1881, not being below the rank of Tahsildár, and includes also a Settlement-officer:
"Revenue-officer":

(10) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified District or Districts, from time to time, appoint:

(11) "sir-land" means (a) land recorded as "sir" in the papers of the last preceding settlement of the local area in which such land is situate; and (b) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years; and (c) waste land which has been broken up by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years; and (d) in Sambalpur, includes also "bhogra" land.

Explanation.—Land which has, after the date of such settlement, or the expiry of such period of twelve years, or six years (as the case may be), been for a period of six consecutive years unoccupied by such proprietor is not sir-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sir-rights.

(12) "mahál" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of the Central Provinces Land-revenue Act, 1881, to be a mahál:

(13) "village" includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Chief Commissioner declares to be a village for the purposes of the Central Provinces Land-revenue Act, 1881:

(14) "lambardár" means a person appointed under the Central Provinces Land-revenue Act, 1881, to represent the proprietary body of a mahál in its relations with the Government:

(15) "record-of-rights" includes the supplementary administration-paper prepared at or after the time of making a settlement before the Central Provinces Land-revenue Act, 1881, came into force.

CHAPTER II.

OF THE CLASSES OF TENANTS, AND THEIR ORDINARY RIGHTS AND LIABILITIES.

Classes of tenants.

4. There shall be four classes of tenants:—

- (1)—Absolute occupancy-tenants:
- (2)—Occupancy-tenants:
- (3)—Ordinary tenants:
- (4)—Sub-tenants.

A.—Rights and Liabilities common to all Classes of Tenants.

5. In all suits and proceedings between landlord and tenant, the rent payable for any year by a tenant, in respect of his holding, shall be deemed to be the rent payable, in respect of such holding, in the year immediately preceding such year, unless a different rent has been agreed upon, in writing, by the landlord and the tenant, or has been fixed by an order under this Act. Bill no. 4, 66

6. When the rent of a holding is fixed by any order under this Act, such order shall take effect from the commencement of the agricultural year next following the date of the application upon which such order is made. Provided that, if such application is made on the ground of an increase, or diminution, of the area of a holding, the order shall take effect from such date as the officer making it may direct. Bill, s. 5.

7. Rents shall be payable in such instalments, and on such dates as the Chief Commissioner may, from time to time, by rule prescribe, and in the absence of such rule, according to local usage. Bill, s. 6.

8. In the absence of any person duly appointed Landbardár to be to act on behalf of several persons who are joint proprietors of a mahál, the Landbardár shall be deemed to be, for the purpose of this Act, the sole person entitled to grant leases to tenants, or enter into agreements with tenants as such, of the land held jointly by such proprietors, or to give receipts for the rent of such land, or to issue any notice, make any application, or being any suit, under this Act, to, in respect of, or against, any tenant of such land. Bill s. 46.

9. When two or more persons are the joint landlords of any tenant, such tenant, subject to any rule which the Chief Commissioner may, from time to time, make in this behalf, shall not be compelled to pay part of the rent of his holding to one of such persons and part to another or others; and such persons shall, if the tenant so desires, appoint one of their number, or some other person, to receive the rent of such holding. Bill, s. 47.

10. When any landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant, and

when any tenant, in the case mentioned in section nine, desires the appointment of a person to receive rent payable in money and no such appointment is made within a reasonable time, and when any tenant in any other case is doubtful as to the person entitled to receive such rent from him,

such tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of

rent which he believes to be due; and such officer shall receive such deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application and that it was made in good faith.

Bill, s. 8.

11. When any deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord on account of rent due.

Deposit to be deemed a payment to the landlord.

The officer receiving such deposit may pay the amount thereof to any person appearing to him to be entitled to receive the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing herein contained shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

Bill, s. 9.

12. Every tenant, from whom any sum is levied by his landlord in excess of the rent specified in his lease, or payable under the provisions of this Act, shall be entitled to recover from such landlord a sum not exceeding double the amount so levied.

Penalty for exaction by landlord.

Bill, s. 9.

13. When any landlord refuses a receipt for rent paid by a tenant, or grants such receipt but refuses or neglects to specify therein the period or crop in respect of which the payment is made, such tenant shall be entitled to recover from such landlord a sum not exceeding double the amount of the rent so paid.

For not giving receipt.

Bill, s. 89, cl. (6).

14. Notwithstanding anything contained in this Act, or in the conditions of settlement, the rent of any tenant may, on the application of the landlord, be enhanced on the ground that the productive power of the tenant's holding has been increased through the agency or at the expense of the landlord. Such enhancement shall bear the same proportion to such rent as the increase so effected in the productive power of the holding bears to the productive power of the holding as it was immediately before such increase was effected.

The rent of an absolute-occupancy tenant shall not be enhanced under this section when the productive power of the holding has been increased by an improvement made by a landlord in contravention of any rule made hereunder.

Bill, s. 80, cl. (4).

15. When the area of a holding is increased or diminished by encroachment, fluvial action or otherwise, a Revenue-officer may, by

Power to fix rent when area of holding is altered.

order, on the application of the landlord or of the tenant, fix the rent payable in respect of such holding with reference to such increase or diminution:

Provided that such order shall not bar the landlord's claim to enhance the rent of such holding on other grounds allowed by this Act.

16. The rent of land assessed to land-revenue shall not be fixed for a term exceeding the period of the settlement of such land.

Agreement fixing rent on revenue-paying lands beyond term of settlement, voidable.

All agreements made in contravention of this section shall, as regards the amount of rent, be voidable at the will of either party.

17. In all cases in which a tenant has paid rent in kind, or on the estimated value of a portion of the crop, or by rates varying with the crop, or partly in one of such ways and partly in another or others, the landlord or tenant may apply to commute such rent to a fixed money rent. Such application shall be made,

while the settlement of the district in which such tenant's holding is situate is in progress, to a Settlement-officer; and,

at any other time, to any revenue-officer specially empowered by the Chief Commissioner in this behalf.

On the receipt of such application, such officer shall determine the sum to be paid as money rent and shall order that the tenant shall pay, in lieu of paying his rent in kind or as aforesaid, the sum so determined. If the application is opposed, such officer may, for reasons to be recorded by him in writing, refuse to grant the same.

18. Any tenant not holding under a lease for a fixed period may, at the end of any agricultural year, surrender his holding, or, with the consent of his landlord, any part thereof. But notwithstanding such surrender he shall continue to be liable for the year next following the date of such surrender for the rent of the holding or part surrendered, unless—

(a) he gives to his landlord, at least thirty days before the end of such agricultural year, notice in writing of such surrender; or

(b) he takes a new holding in the same village from the same landlord; or

(c) he ceases, at least thirty days before the end of such year, to reside in the village in which the surrendered holding is situate; or

(d) the landlord himself cultivates such holding or lets it to another tenant.

19. The produce of a holding in the occupation of a tenant shall be hypothecated for the rent payable in respect thereof, and, if such produce is attached and sold in execution of a decree,

Hypothecation of produce for rent.

the Court executing the decree shall apply the nett proceeds of the sale in the first instance to satisfy the landlord's claim (if any) for sums due to him in respect of the rent of such holding for the year immediately preceding the attachment, and for the instalment of rent which falls due next after the usual period of harvesting the produce attached.

20. Where an arrear is due from any tenant in respect of his holding, the landlord may, by notice, prohibit removal of produce. the tenant, prohibit the removal of the produce of such holding.

1881. No such prohibition shall be made in respect of any sum claimed in excess of the rent payable by the tenant for such holding in the preceding year, unless the rent has been enhanced in accordance with the provisions of this Act, nor in respect of an arrear which has been due for a longer period than one year.

No such prohibition shall be made more than once in respect of the same produce.

21. Every notice under section twenty, shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is said to be due, and, when a sum in excess of the rent payable by the tenant in the last preceding year is claimed, the decree, order or agreement, as the case may be, for the payment of such sum.

The notice shall be served on the tenant, or other person who may be in charge of the produce on his behalf, and shall remain in force until the rent specified in such notice is paid, or, if such rent is not paid, until the expiry of twenty-eight days after such notice is so given.

22. Notwithstanding such notice, the tenant may reap, gather or store the produce of his holding, and do all other such acts as may be necessary for the due preservation of the same.

23. Any tenant on whom a notice in respect of the produce of his holding has been served under section twenty, and who, except for any of the purposes mentioned in section twenty-two, while such notice is in force, removes, attempts to remove, or abets the removal of, such produce from the place where it was standing, deposited or stored when such notice was served, and

any landlord who distrains or attempts to distrain the produce of any holding, or prevents, or attempts to prevent, otherwise than in accordance with this Act, the removal of any produce of a holding by the tenant thereof, shall be punished with fine which may extend to five hundred rupees.

11, 1881. **24.** Whenever rent is taken by division of the produce, or by estimate or appraisal of the crop, if either the landlord or the ten-

ant neglects to attend, either personally or by agent, at the proper time for making such division, estimate or appraisal, or if there is a dispute regarding the division of the said produce, or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as such officer thinks fit, directing him to divide, estimate or appraise the crop.

25. When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section twenty-four, such officer may, in his discretion, direct such Commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting such assessors (if any), and the procedure to be followed in making such division, estimate or appraisal.

The Commissioner so appointed shall make the division, estimate or appraisal, in accordance with such instructions.

26. When a crop has been estimated or appraised under the foregoing provisions, such estimate or appraisal shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued. Such Revenue-officer shall consider the Commissioner's report, and after such hearing and enquiry (if any), as he may think necessary, shall pass order thereon either confirming or varying the estimate or appraisal, and the rent shall be payable in accordance with such order.

27. In sections nineteen to twenty-four (both inclusive) the produce of a holding means—

- (a) crops and other products of the earth standing or ungathered on such holding;
- (b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on such holding or a threshing-ground, or stored in the homestead of the village in which such holding is situated, or in which the tenant, whose holding it is, resides.

B.—Of Absolute Occupancy-tenants.

28. All tenants who, on the day when this Act comes into force, occupy any holding in respect of which they have been recorded in any record-of-rights made before such day as "absolute occupancy-raiyats," or in terms equivalent thereto, shall be deemed to be absolute occupancy-tenants of such holding.

29. The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at the settlement of the district in which such hold-

ing is situate, and the rent so fixed, shall not be enhanced during the currency of such settlement, except under the provisions of section fourteen or section fifteen.

The rent payable in respect of his holding by any such tenant, when this Act comes into force, shall be deemed to have been fixed at the last preceding settlement of the district in which his holding is situate.

Bill, no. 81,
82.

30. The right of an absolute occupancy-tenant in his holding shall devolve as if it were land, and shall be transferable by mortgage or sale or gift. Any mortgage of such right for a longer period than fourteen years made, after this Act comes into force, shall be deemed for the purposes of this Act to be a sale.

If an absolute occupancy-tenant intends to transfer his right in his holding by sale or gift, he shall give to his landlord a written notice of such intention, and the landlord may thereupon—

(a) within one month from the receipt of such notice, claim to purchase such right, at a price equal to five times the yearly rent payable in respect of the holding; or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to such rent for one year, and such sum shall be a charge on the holding sold.

Any transfer made in contravention of this section shall be void.

31. An absolute occupancy-tenant shall not be liable to be ejected from his holding by his landlord as such for an arrear of rent or for any cause.

The right of such tenant in his holding shall be deemed to be hypothecated to the landlord for the rent thereof.

32. When the right of an absolute occupancy-tenant in his holding is sold by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall, in respect of such holding, have the same rights as are reserved to him by section thirty in the case of a private sale.

C.—Of Occupancy-tenants.

Bill, no. 75.

33. All tenants who, when this Act comes into force, have held the same land continuously for twelve years, otherwise than as absolute occupancy-tenants or sub-tenants, have a right of occupancy in, and shall be deemed to be occupancy-tenants of, such land; Provided that such land is not

(a) sir-land, or

(b) held in lieu of wages, or

(c) held under a written lease in which it is agreed that a right of occupancy in such land

shall not be acquired, or that the tenant shall quit the land at the termination of such lease.

Explanation I.—The occupation of the person from whom the tenant inherited his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

Explanation II.—When, by the custom of any village the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with such custom, from time to time, received in exchange for land previously held by him shall, for the purpose of calculating, under this section, the period of twelve years, be deemed to be the same land as the land which he held prior to such exchange.

34. When the rent of the holding of an occupancy-tenant has been fixed by agreement or under this Act, or under any Act hereby repealed, such rent shall not be enhanced until the expiry of ten years from the day on which it was so fixed, except when the settlement of the district in which such holding is situate is in progress, or under the provisions of section fourteen or section fifteen.

35. When any occupancy-tenant dies, his right in his holding shall devolve as if it were land: Provided that no collateral relative of such tenant shall be entitled to inherit such right, unless at the death of such tenant he was a co-sharer in the holding.

No right of occupancy shall be transferable in execution of a decree or otherwise than by voluntary transfer between persons in favour of whom, as co-sharers, such right originally arose, or who have become, by succession, co-sharers therein.

36. Subject to the provisions of section thirty-four, the rent payable by an occupancy-tenant may be fixed on the application either of the tenant or his landlord,

(a) when the settlement of the district in which such holding is situate is in progress, to a Settlement-officer;

(b) during the currency of the settlement of such district, to a Revenue-officer.

On such application the Settlement or Revenue-officer, as the case may be, may fix the rent at a rate, not more than three-fourths of the rate usually paid by ordinary tenants of holdings situate in the same or adjoining tahsils, for land of similar quality with like advantages.

When the land in respect of which an application is made under this section, has been improved in accordance with this Act by the agency or at the expense of the tenant of such land, the quality and advantages of such land shall, for the purposes of this section, be deemed to be the quality and advantages had and enjoyed by such land immediately before such improvements were made.

37. No occupancy-tenant shall be ejected from his holding, except in execution of a decree of a Civil Court

(a) in a suit for arrears of rent; or,

(b) in a suit for compensation for diverting the land to non-agricultural purposes or for some other act or omission which by custom or contract not inconsistent with this Act or with any other law for the time being in force renders him liable to be ejected.

38. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging such land in accordance with such custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

39. If a tenant having a right of occupancy in any land ceases to hold such land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that such tenant has accepted such other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

D.—Of Sub-tenants.

40. A tenant who holds land from another tenant, is a sub-tenant of such land.

41. A sub-tenant shall hold on such terms as may be agreed upon between him and his landlord.

42. No sub-tenant shall be entitled to retain his holding after the determination of his landlord's interest in the land comprised therein; nor shall he have any claim, for compensation or otherwise, against any one but his own landlord on account of any loss arising to him from such determination.

E.—Of Ordinary Tenants.

43. All tenants who are not absolute occupancy-tenants or occupancy-tenants or sub-tenants, are ordinary tenants.

44. An ordinary tenant shall pay such rent as may, from time to time, be fixed by agreement between him and his landlord:

Provided that, after the rent has been so fixed, it shall not be liable to be changed, except under the provisions of section fourteen or section fifteen, or until the expiry of seven years from the date when it was so fixed.

45. An ordinary tenant shall not be ejected from his holding, except under a decree of a Civil Court, on one or other of the following grounds:

(a) that he has refused to agree to an enhancement of rent demanded by his landlord, in accordance with the provisions of this Act;

(b) that the land is needed for the execution of some work of permanent and general benefit to the village in which such land is situate or to the residents thereof;

(c) any ground mentioned in section thirty-seven clause (a) or clause (b).

46. An ordinary tenant who is ejected, under New. clause (a) or clause (b) of section forty-five from his holding shall be entitled to receive from his landlord compensation for disturbance.

Such compensation shall be in addition to any compensation due to him hereunder on account of improvements, and shall amount,

(a) if the tenant is ejected under clause (a) of section forty-five, to a sum equal to ten times the yearly increase of rent demanded from him;

(b) if the tenant is ejected under clause (b) of section forty-five, to a sum calculated at the rate of one year's rent of the land from which he is ejected, for every year during which he has occupied such land, subject to a maximum limit of five years' rent.

47. The right of an ordinary tenant in his holding shall not be transferable, except with his landlord's consent, and, where it has not been transferred, shall cease to exist at the death of such tenant: Provided as follows:—

(a) the representative (if any) of a deceased ordinary tenant shall be entitled to occupy the holding of such tenant until the end of the agricultural year in which he died;

(b) if such representative be ejected, he shall be entitled to such compensation for improvements as such tenant would have been entitled to, had he been ejected;

(c) when two or more persons have jointly cultivated the same holding as ordinary tenants, the right shall not cease to exist until the death of the last survivor of such persons.

CHAPTER III.

OF IMPROVEMENTS AND COMPENSATION THEREFOR.

48. On the holding of an absolute occupancy-tenant, the tenant, and on the holding of any other tenant, the landlord of such tenant, shall be entitled to make improvements.

If a landlord or tenant, not being so entitled, desires to make improvements on a holding, he shall proceed in such manner as the Chief Commissioner may, from time to time, by rule direct.

Bill, s. 40;
Cl. 33 & 34
Vic. c. 46,
s. 4.

49. Every tenant who is ejected from his holding shall be entitled to compensation for improvements made by him or the persons under whom he claims, and for which compensation has not already been made.

Whenever a Court makes a decree or order for the ejectment of a tenant, it shall determine the amount of compensation due under this section to such tenant for improvements, and shall make the order of ejectment conditional on the payment of such amount to the tenant.

No compensation under this section for an improvement, shall be claimable in any of the following cases, namely:—

(a) where the tenant has made the improvement in contravention of any rule made under section forty-eight and for the time being in force;

(b) where the tenant, having contracted not to make such improvement without giving the landlord reasonable notice to make it, has made it without giving such notice.

Improvements made by a tenant before this Act comes into force, in lands other than sir-land, shall be deemed to have been made in accordance with rules made under section forty-eight, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Bill, s. 41.

50. In estimating the compensation to be awarded under section forty-nine for an improvement, the Court shall have regard—

(a) to the labour and capital expended by the tenant in making such improvement;

(b) to the amount by which the letting value, or the produce of the holding or the value of such produce is increased by such improvement;

(c) to the amount for which the improvement could have been made by the landlord; and

(d) to any reduction or remission of rent made by the landlord to the tenant in consideration of such improvement.

Bill, s. 42.

51. Compensation for improvements may be made in such manner as may be agreed upon by the landlord and the tenant, or may be paid in money by such instalments (if any) as the Court thinks fit.

CHAPTER IV.

JURISDICTION AND PROCEDURE.

Bill, s. 43.

52. No Court other than the Court of a Revenue-officer shall take cognizance of any dispute or matter in which any application of the

Revenue-officers to have cognizance of certain applications.

nature mentioned in this section might be made namely:—

(a) applications for the appointment of a receiver of rent (section nine);

(b) applications for permission to deposit rent in court (section ten);

(c) applications to enhance rent on account of improvements made by, or at the expense of, the landlord (section fourteen);

(d) applications to fix the rent of a holding the area of which has been increased or diminished (section fifteen);

(e) applications for the commutation of rents paid in kind (section seventeen);

(f) applications for a commission to divide, estimate or appraise a crop (section twenty-four);

(g) applications to fix the rent payable by an occupancy-tenant (section thirty-six);

(h) applications relating to such other matters as Revenue-officers are empowered to deal with under this Act.

On any such application being made to the Court of a Revenue-officer it may, subject to the provisions herein contained, grant such relief as the nature of the case requires.

53. In disposing of the matters referred to in section fifty-two, Revenue-officers shall, as nearly as may be practicable, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881.

From every order passed by a Revenue-officer in respect of any such matter, an appeal shall lie as if such order had been passed by such officer under the said Land-revenue Act.

54. Applications to fix the rent of an occupancy-tenant may be made, subject to the provisions of section thirty-four, at any time during the period of such tenant's occupation.

All other applications may be made at any time during the occupation of his holding by the tenant by or in respect of whom such applications are made.

55. In suits under this Act, the Code of Civil Procedure shall apply, as far as may be, to all proceedings for which no special procedure is herein provided.

56. Deputy Commissioners shall, as such, exercise all the powers conferred on a Revenue-officer by this Act.

The Chief Commissioner may, from time to time, confer upon any other Revenue-officer, either by name or by virtue of his office, all or any of such powers.

Bill, s. 3,
cl. (14).

57. Except as provided in section fifty-two, Jurisdiction of Civil Courts. the Civil Courts shall have jurisdiction in all suits or proceedings between landlord and tenant: Provided that—

(a) no Judge of a Civil Court of original jurisdiction shall, unless he is also a Revenue-officer, hear any suit between a landlord and a tenant regarding any matter dealt with by this Act; and

(b) such suits shall be heard and determined only in such Courts, competent to try the same, as the Chief Commissioner may, from time to time, direct.

101. 58. The Chief Commissioner may, from time to time, direct, that all suits, or any specified class of suits, between landlord and tenant shall not be registered in the registers kept under the Code of Civil Procedure for the registration of civil suits, but in such other separate registers as he may prescribe.

102. 59. In suits under this Act between landlord and tenant, the plaintiff shall, in addition to the matters mentioned in section fifty of the Code of Civil Procedure, specify the area of the land, and, where the fields, comprised in the holding to which the suit relates, have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which such rent is payable; and, in suits for compensation for improvements, an accurate valuation and description of the improvements.

When the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate and sufficient description of such land and its boundaries shall be given in the plaint.

103. 60. In suits and applications under this Act, the fees of a legal practitioner shall not be allowed as costs, unless the Court considers, for reasons to be recorded by it in writing, that such fees ought to be allowed.

107. 61. No set-off shall be allowed in any suit under this Act, unless the amount claimed as a set-off has been determined by a decree or order of a competent Court.

108. 62. In suits under this Act, for arrears of rent, interest on such arrears may be allowed up to judgment, at such rate not exceeding twelve per cent. per annum as the Court thinks fit.

110. 63. When any such suit is decided, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class, as defined in the Central Provinces Courts' Act, 1865, the decision shall not be subject to appeal, unless—

(a) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or

(b) a question relating to a title to land, or some interest in land, has been determined as between parties having conflicting claims thereto.

64. No suit for an arrear of rent shall be instituted after three years from the date when the arrear became due; and no other suit under this Act shall be instituted after one year from the date when the cause of action accrued.

Limitation of suits. No process of execution shall be issued on a decree under this Act after three years from the date of such decree, or, in the case of a decree for money, after three years from the date on which the money, to recover which execution is applied for, became payable under the decree.

65. If a decree for an arrear of rent is passed against a tenant other than an absolute occupancy-tenant, and remains unsatisfied at the end of the agricultural year in which such decree was passed, the landlord may apply to the Court, having authority to execute such decree, to eject such tenant; and the Court may thereupon cause a notice to be served on such tenant, informing him that if he does not pay the amount due under the decree within thirty days from the receipt of the notice, he will be ejected from his land.

If such amount be not so paid, the Court may, on proof of the service of such notice, eject such tenant from the land in respect of which the amount is due, or may allow the tenant such further period not exceeding thirty days as to it seems fit and may on the expiry of such further period, if such amount be not paid, eject him.

66. Where, in answer to a suit for an arrear of rent, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period for which the arrear is claimed has been diminished or destroyed by drought, hail or other calamity beyond his control, the Court in its decree may make such deduction from the amount claimed by the landlord, and direct payment of the amount decreed in such instalments (if any), as it may think fit, and may order that such decree shall not be executed by ejectment of the tenant from his holding.

In making such decree the Court shall have regard to—

(a) the value of the produce of the holding for the whole agricultural year in which the arrear accrued;

(b) the proportion which the amount of rent payable for such year by the tenant bears to such value.

If in any such suit it appears that the land-revenue of the village in which such holding is situate has been suspended or remitted on account of drought or other calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that, in the case of suspension, the produce of the holding has been diminished, and, in the case of remission, that such produce has been destroyed, by such calamity.

N.W.P.
Rent Act,
s. 149.

67. Whenever a decree is given for the ejectment of a tenant or the cancellation of his lease, on account of any act or omission by which the land in his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it thinks fit, allow him to repair such damage within one month from the date of the decree, or order him to pay such compensation within such time, or may make such other order in the case, as the Court thinks fit. If such damage be so repaired or compensation so paid, or order obeyed, the decree shall not be executed.

New.

68. When a landlord wishes to eject, under section forty-five, clause (b), an ordinary tenant, or to enhance his rent without his consent, such landlord shall serve through the Civil Court a notice on such tenant, on or before the thirty-first day of December next preceding the agricultural year in which such landlord desires to take possession of the land, or in which the enhancement is to take effect.

New.

69. When a Civil Court passes under clause (b) of section forty-five a decree for the ejectment of an ordinary tenant, it shall in its decree state the amount payable to the tenant as compensation under section forty-six, and such decree shall not be executed until the sum so payable has been deposited in Court by the landlord.

New.

70. If an ordinary tenant has been ejected under clause (b) of section forty-five from his holding, and the landlord within one year from the date of such ejectment fails to use proper diligence in the execution of the work for which such holding was taken, the Court, on the application of such tenant and on his refunding the sum paid to him under section forty-six as compensation, or so much of it as the Court may direct, shall reinstate him in the holding.

New.

71. When an ordinary tenant, on whom a notice of enhancement of rent has been served under section sixty-eight, refuses to agree to pay the enhanced rent, the landlord may institute a suit for ejectment in the Civil Court on or before the fifteenth day of March next after the date of such refusal.

Thereupon the Court shall fix a date for hearing the case, and shall issue a notice to the tenant, summoning him to appear on such date, and stating the yearly increase of rent asked by the landlord and the sum payable to the tenant as compensation under section forty-six, clause (a).

New.

72. On the appearance of the parties on the date fixed, the Court shall require the tenant to agree, or refuse to agree, to pay the enhanced rent.

If he agrees to pay such rent, his agreement shall thereupon be recorded, and he shall be liable to pay the enhanced rent from the commencement of the agricultural year next following the date of such agreement.

If he refuses, the Court shall pass a decree for his ejectment on condition that within fifteen days from the date of the decree the landlord deposits in Court the sum payable to the tenant as compensation under section forty-six, clause (a).

73. If such sum is so deposited, the order of ejectment shall be made absolute and the sum deposited shall be paid to the tenant. If such sum is not so deposited, the decree shall become null and void, and the tenant shall remain in occupation of his holding at the rent previously paid by him.

74. The following rules shall be applicable in the case of every tenant ejected from a holding in accordance with the provisions of this Act—

(a) when the tenant has, previous to the date of his ejectment, sown or planted crops in any land comprised in such holding he shall be entitled, at the option of the landlord, either to retain possession of such land and to use it for the purpose of tending and gathering in such crops; or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing such land and sowing, planting and tending such crops;

(b) when the tenant has, previous to the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in such land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing such land:

Provided that no tenant shall be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after proceedings had been taken by the landlord for his ejectment, he has cultivated or prepared such land contrary to local usage.

75. When a landlord elects, under section seventy-four, clause (a), to allow a tenant to retain possession of any land for the purpose specified in that clause, such tenant shall pay to such landlord, for the use and occupation of such land during the period for which he is allowed to retain possession of the same, such rent as the Court may deem reasonable.

76. Notwithstanding the provisions of section sixty-one, in all suits for ejectment, the Court shall inquire into and determine all claims under this Act, by the landlord against such tenant, or by such tenant against the landlord.

a. 35.

77. When it appears to a Court making such inquiry that the amount payable under this Act by the landlord to the tenant exceeds the amount so payable by the tenant to the landlord, it shall, unless the landlord and tenant come to an arrangement regarding the payment of such excess sum, fix a time within which it must be paid into Court.

If such payment is made within the time fixed, the Court shall eject the tenant;

and if such payment is not so made within such time, it shall refuse to eject the tenant.

a. 60.

78. All decrees for ejectment under this Act shall take effect from the beginning of the agricultural year next following the date of the order or decree, and shall be made subject to the conditions specified in sections forty-nine and seventy-four.

a. 53.

79. If any landlord or tenant desires that the extent of any holding should be ascertained, or that evidence relating to any improvement made in respect thereof, or to the state of such holding at any specified time, should be recorded, he may apply to a Revenue-officer, and such officer shall thereupon make, or cause to be made, such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, or shall record such evidence, as the case may be:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

CHAPTER V.

MISCELLANEOUS.

a. 45 Vic.,
a. 40, a.
23

80. Every provision contained in any lease or contract of tenancy or other contract, which provision is inconsistent with any of the provisions of this Act, or whereby a tenant agrees not to make, or to be ejected if he makes, improvements on his holding, or to forego any claim to compensation to which he is entitled hereunder, shall be void:

Provided that nothing in this section shall affect any agreement or lease whereby—

(a) waste-land is let for the first time, in so far as such agreement or lease fixes the rent of such waste-land for any period not exceeding the term of the current settlement;

(b) any tenant is secured in the enjoyment of rights greater than those given to tenants of his class under this Act.

Certain entries in record-of-rights to be void.

81. All entries in the record-of-rights of any village providing—

(a) that landlords shall be entitled to prevent tenants from making, or to eject them for making, improvements on their holdings, or to demand increased rent from them in respect of any such improvements; or

(b) that tenants ejected from their holdings shall not be entitled to compensation for improvements in cases in which they would, under this Act, be entitled to such compensation,

shall be void.

Cases in which ex-proprietors become occupancy-tenants of their sir.

82. Every person whose proprietary rights in land are, after this Act comes into force, transferred in any of the following cases:—

(a) when he sells such rights without expressly agreeing to transfer his right to cultivate sir-land contained in the land;

(b) when such rights in land are sold for an arrear of land-revenue;

(c) when such rights are sold in execution of any decree which does not expressly convey his rights in the sir-land contained in the land,

shall have the rights of an occupancy-tenant in the land cultivated by him as sir at the date of such transfer.

Rules by Chief Commissioner.

83. The Chief Commissioner may, from time to time, make rules, consistent with the provisions of this Act, for the guidance of all persons in matters connected with the enforcement thereof.

SCHEDULE.

(See section 2.)

ACTS REPEALED.

Number and year of Act.	Short title.
Act X of 1859	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.
Act XIV of 1863	To amend Act X of 1859.
Act XXII of 1872	To explain and amend Act X of 1859.

R. J. CROSTHWAITE,
Offy. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882, and was referred to a Select Committee:—

No. 6 OF 1882.

A Bill to provide for the grant of licenses to Pilots in British Burma and for investigating certain charges against them.

WHEREAS it is expedient to provide for the grant of licenses to pilots in British Burma, and for investigating certain charges against them; It is hereby enacted as follows:—

1. This Act may be called "The British Burma Pilots Act, 1882":

It extends to the territories for the time being administered by the Chief Commissioner of British Burma;

and it shall come into force at once.

2. In this Act—

"Port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act,

1875, is for the time being in force.

Licensing of Pilots.

3. The Chief Commissioner may, from time to time, appoint competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and to make rules for the licensing of pilots.

- (a) for the conduct of such examinations and for the qualifications to be required;
- (b) for the grant to qualified persons of licenses to act as pilots; and
- (c) for the fees to be paid for such examinations and licenses.

4. No person shall act as a pilot at any port, unless he holds a license granted under section three, authorizing him to act as a pilot at such port.

5. Any person acting as a pilot in contravention of the provisions of section four shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Investigations into charges against Pilots.

6. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, by notification in the *British Burma Gazette*, make rules to regu-

late the conduct of pilots licensed hereunder in all matters connected with the performance of their duties as such pilots.

Any such rule may contain a provision that a pilot committing a breach of such rule shall be punished with the suspension or cancellation of his license, or with the change of his license from a higher to a lower grade.

7. If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed hereunder with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section six, he may direct a Court to be constituted, under this Act, at a port at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and shall then transmit a statement of such grounds to such Court and direct such Court to make an investigation into such charge.

The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate the powers conferred on him by this section to any person at any port.

All proceedings of any person in exercise of the powers so delegated shall be subject to the confirmation of the Chief Commissioner.

8. Every Court constituted under this Act shall consist of a President sitting with three assessors.

9. The President shall be such person as the Chief Commissioner, by notification in the *British Burma Gazette*, appoints in this behalf, either generally or for any specified case.

Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

10. One of the said assessors shall be a master of a sea-going vessel lying in the port at which the investigation is to be made: another shall be a merchant residing at such port: and the third shall be a pilot of not less than five years' service.

11. The assessor who is the master of a sea-going vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the President.

The other assessors shall be summoned by the President in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette*. If there are no such lists, or if it is impracticable to procure the attendance of two persons, one of whom is named in such list of merchants, and the other in such

Draft s. 6:
Cf. I. M. S.
BM (No.
111), s. 141.

Draft s. 8.

Draft s. 9:
Cf. Act VII
of 1880, s.
19.

Draft s. 7:
Cf. Act VII
of 1880, s.
14.

Draft s. 9.

Draft s. 12:
Cf. Act VII
of 1880, s.
15.

Act VII
1880, s. 68.

Act VII
1880, s. 69.

Act VII
1880, s. 70.

Act VII
1880, s. 71.

list of pilots, such other assessors or assessor, as the case may be, shall be appointed and summoned by the President.

Draft s. 13. 12. The assessors shall receive such fees as the Fee to be paid to Chief Commissioner may, assessors. from time to time, by rule prescribe.

Draft s. 20: Cf. I. M. S. Bill No. 111), s. 141, para. 2. 13. Before commencing any investigation under this Act the Court shall cause the pilot charged to be furnished with a copy of the statement transmitted, under section seven, to such Court by the Chief Commissioner.

New: Cf. I. M. S. Bill (No. 111), s. 142. 14. For the purpose of an investigation under this Act the Court may summon such pilot to appear before it and shall give him full opportunity of making a defence, either in person or otherwise.

Draft s. 18: Cf. I. M. S. Bill (No. 111), s. 143. 15. For the purpose of any investigation under this Act the Court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents, and the regulation of the proceedings, have the same powers as are exercisable by the principal Court of original criminal jurisdiction for the place at which the investigation is made.

Draft s. 21. 16. Upon the completion of the investigation the Court shall give its decision. Such decision shall be according to the opinion of the majority of the members of the Court, or, if the Court is equally divided, according to the opinion of the President and the member with whom he concurs. In the latter case, any member who does not concur in the decision of the Court may separately record his opinion.

Draft s. 22. 17. If, by such decision, the pilot is found guilty of the charge, or of any one or more of the charges, made against him, the President shall sentence him,

(a) if the act or omission of which the pilot has been found guilty is an act or omission in breach of a rule made under section six, to such penalty as may be prescribed by such rule, or

(b) if the act or omission of which the pilot has been found guilty is any other act or omission, to such penalty, by way of suspension or cancellation of license, or by way of change of license from a higher to a lower grade, as the President thinks fit.

18. If, by such decision as aforesaid, the pilot is found not guilty of the charge or charges made against him, the President shall declare him acquitted of the same.

19. Every sentence passed, under section seven, by the President shall be subject to the confirmation by the Chief Commissioner, to whom the proceedings of the Court shall be submitted by the President.

20. The Chief Commissioner may, in his discretion, remit the whole or any part of such sentence, or direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court.

21. If the President is of opinion that the decision of the majority of the members of the Court is manifestly contrary to the evidence, or that the investigation is otherwise insufficient, the President, instead of passing sentence on the pilot charged, or declaring him acquitted, as the case may be, may certify such opinion to the Chief Commissioner, and the Chief Commissioner may thereupon either order a new investigation before other assessors, or acquit the said pilot, as he thinks fit.

22. Notwithstanding the provisions herein contained, when a charge of misconduct or incompetency is made against any pilot licensed hereunder, the Chief Commissioner may, without holding an investigation under this Act into such charge, pass such orders thereon as he thinks proper, and may sentence such pilot to such penalty as he might be sentenced to under section seventeen.

23. The Chief Commissioner may, from time to time, make rules to carry into effect the provisions of this Act, with respect to the Court for making investigations into charges against pilots, and in particular with respect to—
(a) the mode in which the President shall, under section eleven, summon the assessors;
(b) the amount of the fees to be paid to the assessors; and
(c) the procedure of the said Court.
All such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

STATEMENT OF OBJECTS AND REASONS.

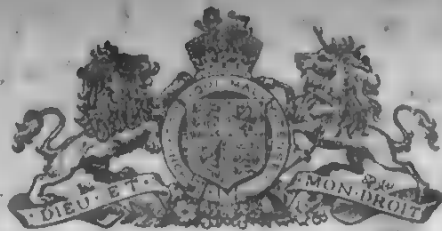
THE Pilot Rules at present in force at the ports of British Burma, have not the force of law. So far as they relate merely to the appointment and duties of pilots, the want of legal sanction does not appear to be of importance, as these matters can be arranged for executively. The rules, however, provide also for the holding of courts for the trial and punishment of pilots guilty of misconduct in the performance of their duties, and in so far as they relate to such matters require something more than the authority of mere executive orders for their due enforcement. At Calcutta, where the subject of the appointment and duties of pilots has, as in Burma, been provided for executively, the subject of the trial and punishment of pilots has been dealt with by the Legislature, in a special Act (XII of 1859). It seems desirable that in Burma, also, this subject should be similarly dealt with.

The present Bill has, therefore, been prepared. It provides for the holding of investigations into charges of misconduct on the part of pilots. The constitution of the Courts of Enquiry, and the manner of selecting the members, are duly provided for, and power is given to the Chief Commissioner to make rules for conducting the proceedings. The authority of the Courts, and the confirmation required for their findings and orders, are also suitably defined. The Bill also prohibits any person from acting as a pilot in any port in British Burma, or in any navigable river or channel leading to any such port, unless he holds a license to act as a pilot granted by the Chief Commissioner. This seems desirable, as under the present law there is nothing to prevent a person from acting as a pilot without a license, except in ports to which section 38 of the Indian Ports Act, 1875, has been specially extended.

CALCUTTA;
The 9th February, 1882.

WHITLEY STOKES.

R. J. CROSTHWAITE.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 1, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882 :—

We, the undersigned members of the Select Committee to which the Bill to provide for the Relief of Encumbered Estates in the Jhānsi Division of the North-Western Provinces was referred, have considered the Bill and the papers noted in the margin, and have the honour to present this further report.

The Bill, as amended by us, was laid before the Council, with our report dated 4th February, 1881, and was sent to the Local Government for opinion.

The Government of the North-Western Provinces replied in their Secretary's letter, No. 629, dated 25th April, 1881. In that letter, the Lieutenant-Governor suggested an entirely new plan for dealing with the Jhānsi question, and forwarded a memorandum prepared by Mr. Bazett Colvin, and the rough draft of a new Bill.

It is this new Bill which we have now had under consideration.

The chief points of the present scheme, as laid down by Mr. Colvin, are as follows :—

- (1). The indebted zamindār, or an officer appointed for the purpose by the Local Government, may apply to the Commissioner of the Division, stating the debts and liabilities of such zamindār.
- (2). The Commissioner may refer the application to an officer styled "the Special Judge," who is to be appointed for this purpose, and who may, if the Local Government pleases, be one of the District staff.
- (3). On the receipt of an application by the Special Judge, all claims against the indebted zamindār are to be called in.
- (4). In dealing with the claims, the Special Judge is to have powers similar to those conferred on the Courts by the Dekkhan Agriculturists' Relief Act, No. XVII of 1879.
- (5). All proceedings, of whatever kind, taken in other Courts against the indebted zamindār, are to be for ever stayed; and he is to be disabled from contracting fresh liabilities, until certain conditions have been fulfilled.
- (6). The Special Judge will determine the amount of the debts and liabilities of the zamindār, and will ascertain the nature and amount of property possessed by him, other than his proprietary rights in land.
- (7). If the value of such property, other than as aforesaid, is sufficient to pay the debts, the Special Judge will give the creditors decrees, which they may execute through the ordinary Civil Courts.
- (8). If such value is not so sufficient, the Special Judge will submit to the Commissioner a report showing the amount of the debts due by the zamindār, and detailing the property, other than proprietary rights in land, belonging to such zamindār.

- (9). An arbitrary value is then to be put on the zamindár's proprietary rights in land; (1), for the purpose of a loan from Government, a sum equal to eight times the nett annual profits derived from such rights; (2), for the purchase of such rights by Government, a sum equal to sixteen times and two-thirds such nett annual profits.
- (10). If the debts certified by the Special Judge can be met by the proceeds of such other property as the indebted zamindár possesses, together with a sum equal to the loan value of his proprietary rights in land, the zamindár is to be asked if he will accept a loan from Government. If he accepts, the money is to be advanced from the public treasury, and the debts are to be paid. If he declines, the Commissioner may sell his proprietary rights by auction, to the extent necessary to meet the claims certified by the Special Judge.
- (11). When the zamindár accepts a loan, the Government will have a lien on his land. If he fails to repay the loan within the time laid down for that purpose by the Commissioner, his proprietary rights, or such part of them as may be necessary to cover the unpaid portion of the loan, shall vest in the Secretary of State for India in Council.
- (12). When the debts certified by the Special Judge, exceed in amount the aggregate value of the zamindár's other property and of his proprietary rights in land as estimated for the purpose of a loan, the zamindár is to be declared to be insolvent, and his proprietary rights in land are to be sold by auction.
- (13). Such rights will be put up for sale at the upset price of sixteen times and two-thirds the nett annual profits, and sold to the highest bidder above that sum. If there is no bid, the Commissioner will pay to the insolvent's estate a sum equal to sixteen times and two-thirds the nett annual profits. The debts will be paid off, so far as may be practicable, and the insolvent's proprietary rights in land will vest in the Secretary of State for India in Council.
- (14). In all cases in which the proprietary rights shall vest in the Secretary of State for India in Council, the zamindár will continue to hold his sir-land as an ex-proprietary tenant. And the same consequence ensues, as a matter of course, when his rights are sold on his refusal to accept a loan.
- (15). On the final completion of any of these proceedings, that is to say, when the zamindár's proprietary rights have been sold, or when they have vested in the Secretary of State for India in Council, or when the loan has been re-paid, the Commissioner will declare the disabilities imposed on the zamindár to be removed.

The zamindár then will be in this position. If he has taken a loan, he will be liable for the repayment of the loan, by instalments, with interest. He will have to pay these sums in addition to his land-revenue, but they will probably be less than the sums extracted from him by his creditors. He will have his sir-land to live upon, together with whatever remains to him out of his rental, after the payments of instalments of the loan, interest thereon, land-revenue and rates. He will be freed from all other liabilities and encumbrances, and, after the loan is re-paid, will be restored to the full enjoyment of his rights.

If he refuses the loan, he will lose his proprietary rights, in whole or in part, but he will be completely freed from debt, and will continue to hold his sir-land as an ex-proprietary tenant.

Such also will be his position if he is declared an insolvent.

We have made the following material alterations in the Bill, as drafted by Mr. Bazett Colvin:—

Firstly, Mr. Colvin provided that, if the debts, as found by the Special Judge, could be met by the proceeds of the sale of the zamindár's property, other than his proprietary rights in land, the Special Judge should give the creditors decrees and leave them to get satisfaction in ordinary course of law. He provided also that, in such case, the zamindár's disabilities were to cease.

It appears to us that the result of this proceeding would be to start the zamindár on a fresh career, with decrees hanging over him, to meet which he would probably raise fresh loans.

We have provided, therefore, that in these cases also the Special Judge shall send a report to the Commissioner, who will cause the property enumerated in the Special Judge's report, or a portion of it, to be sold. If the proceeds are sufficient to pay the debts as determined by the Special Judge, the Commissioner will pay such debts, and the zamindár will thereupon be discharged from all liabilities.

If the proceeds are not so sufficient, the Commissioner will cause the valuation of the zamindár's proprietary rights to be made, and the case will go on as contemplated by Mr. Colvin.

Secondly, we think that the value proposed to be put upon the zamindár's interest in the land is too high. It is probably three times as much as property of the kind in Jhānsi would fetch at public auction. We assent to the principle that the zamindár's creditors, whose contracts we propose to override, should be generously dealt with; but we do not think it is safe to advance more than six times the nett annual profits of the property as a loan, or to give more than ten times such profits for the purchase of such property.

The interest chargeable on loans advanced by Government under the Bill has been fixed at five per cent. simple interest, with the assent of the Financial Department. The Bill has been amended accordingly.

Thirdly, we think that, when the debts of the zamindár can be met with a loan, it is unnecessary to provide that his proprietary rights in land shall, on his failure to repay the loan, vest in the Secretary of State for India in Council.

The necessary corollary of this provision is that, when part of the loan has been re-paid, part only of the proprietary rights shall be forfeited. The result will be, that small parts of villages or shares in villages will belong to Government and much trouble will be given to the administration.

It seems to us better to provide that, on the occurrence of a default in the payment of any instalment of principal or interest, the whole sum due shall be deemed to be an arrear of land-revenue, and shall be recoverable as such.

This provision will give the Deputy Commissioner ample power to take possession of the defaulter's land, and, if necessary, will enable Government to sell the defaulter's proprietary rights under the land-revenue law.

The objection taken to this amendment is, that it will compel the district-officer to manage the land. But in any case, whether he assumes possession for a term of years as we propose, or whether the proprietary rights of the defaulter are vested in the Secretary of State for India in Council, some arrangement will have to be made for the management of the land and the collection of the rents. There will be no more difficulty in the one case than in the other.

The Bill appears to us now to be put in as simple a shape as is practicable.

We recommend that the Bill, as now amended, be published in the *Gazette of India* and in the local official Gazette.

C. H. T. CROSTHWAITE.

WHITLEY STOKES.

RIVERS THOMPSON.

E. BARING.

W. C. FLOWDEN.

The 16th March, 1882.

No. III.

THE JHÁNSÍ ENCUMBERED ESTATES BILL, 1882.

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No. III.

A Bill to provide for the relief of Encumbered Estates in the Jhānsī Division of the North-Western Provinces.

WHEREAS many zamindārs in the Jhānsī Division of the North-Western Provinces are in debt, and their immoveable property is subject to encumbrances, and it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Jhānsī Encumbered Estates Act, 1882":
Short title. and it shall come into force on the passing thereof.
Commencement.

2. In this Act—
Interpretation-clause. "zamindār" means a proprietor of land or of any share in land assessed to revenue, and includes an ubāridār:
"zamindār":

"sir-land": and "sir-land" means—
(a) land recorded as sir at the last settlement or revision of settlement of the district in which it is situate, and continuously so recorded since;
(b) land continuously cultivated for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour;
(c) land recognized by village-custom as the special holding of a co-sharey, or treated as such in the distribution of profits or charges among the co-sharers.

CHAPTER II.

APPOINTMENT OF OFFICERS.

3. The Local Government may, from time to time, by notification in the official Gazette, appoint, for any local area in the Jhānsī Division, a special Judge, who shall exercise the powers conferred, and perform the duties imposed, by this Act on such officer.
Power to appoint a special Judge.

The Local Government may, at any time, by a like notification, suspend or remove any special Judge so appointed.
Power to suspend or remove special Judge.

CHAPTER III.

OF THE APPLICATION AND PRELIMINARY INQUIRY.

4. At any time within twelve months after a special Judge is appointed for any local area, any zamindār owning land in such area, or such officer as the Local Government may, from

time to time, appoint in this behalf, may apply, in writing, to the Commissioner of the Jhānsī Division, stating that such zamindār is subject to debts or liabilities other than debts due, or liabilities incurred, to Government, or that his immoveable property is encumbered with debts and liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to him:

Provided that, when such zamindār is a disqualified proprietor within the meaning of section 131 of the North-Western Provinces Land-revenue Act, 1873, such application shall be made—

(a) when his property is under the superintendence of the Court of Wards, by the manager of his property, with the consent of that Court; and
(b) when his property is not under such superintendence, by the Deputy Commissioner of the district in which such property is situate.

The Local Government may, from time to time, by notification in the official Gazette, extend the time for making applications. Power to extend time for making applications. applications under this section.

5. When any such application is made in the case of any zamindār, the Order to inquire. Commissioner shall direct an inquiry to be made by the special Judge—

(a) into the nature and amount of such debts and liabilities other than debts due, and liabilities incurred to, Government; and

(b) into the sufficiency of such zamindār's property, whether moveable or immoveable, (exclusive of the property mentioned in the first proviso to section 266 of the Code of Civil Procedure), to discharge such debts and liabilities other than as aforesaid.

6. When an inquiry has been directed under section five, the applicant shall, within a period to be fixed by the Commissioner, submit to the special Judge a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of complaints. Verified statement to be submitted.

Such statement shall contain, so far as may be practicable,— Contents of statement.

(a) such particulars as the special Judge may require respecting the debts and liabilities, other than as aforesaid, to which the zamindār is subject, or with which his immoveable property or any part thereof is encumbered;

(b) the nature and value of the zamindār's property (exclusive of his proprietary rights in land and the property mentioned in the first proviso to section 266 of the Code of Civil Procedure); and

(c) the names and residences of his creditors, so far as they are known to, or can be ascertained by, such zamindār.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code: False averments in statement.

False averments in statement. If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code:

Provided that, when the application is made by an officer appointed under section four, or by the Deputy Commissioner, it shall not be necessary to verify such statement; but the zamindár shall, so far as may be practicable, within a period to be fixed by the special Judge, furnish such information regarding the matters mentioned in section six, clauses (a), (b) and (c), as such Judge may require.

CHAPTER IV.

PROOF OF DEBTS AND PROCEDURE OF SPECIAL JUDGE.

7. When the duly verified statement or the information referred to in section six has been submitted or furnished, the special Judge shall publish in the official Gazette, a notice in the vernacular language of the district, calling upon all persons having claims against the person or the property of the zamindár, by, or with respect to, whom the application was made, under section four, to present to the special Judge, within two months from the date of such publication, a written statement of such claims.

Provided that, when the claimant satisfies the special Judge that he had sufficient cause for not presenting such statement within such period, the special Judge may receive such statement within a further period of two months from the expiration of the original period.

The special Judge shall also cause copies of such notice to be exhibited at his own office, at the offices of the Commissioner of the Jhansi Division and the Deputy Commissioner of the district in which the land of such zamindár is situate, and at some conspicuous place in the village where such zamindár resides.

8. After the publication of such notice, the following consequences shall ensue (namely):—

(a) all proceedings then pending in any civil or revenue Court in British India, in respect of all debts and liabilities, other than as aforesaid, to which the zamindár is subject, or with which his immoveable property is encumbered, shall be for ever stayed; and all processes, executions and attachments issued by any such Court, and then in force, in respect of any such debt or liability, shall become null and void;

(b) in respect of such debts and liabilities, no fresh proceedings, processes, executions or attachments shall, except as hereinafter provided, be instituted in, or issued by, any civil or revenue Court in British India;

(c) until the Commissioner has declared, as hereinafter provided, that the zamindár has ceased to be subject to the disabilities mentioned in this clause, such zamindár shall be incompetent to sell, mortgage, exchange, give or, without the consent of the Commissioner, lease, his proprietary rights in land or any part thereof.

9. Every claimant referred to in section seven shall, in the written statement of his claim, present full particulars thereof.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the special Judge along with such written statement.

If the document be an entry in any book, the claimant shall produce the book to the special Judge, together with a copy of the entry on which he relies. The special Judge shall mark the book, for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

If any document in the possession, or under the control, of the claimant is not delivered or produced by him, as required by this section, the special Judge may refuse to receive such document in evidence on the claimant's behalf, at the investigation of the case.

10. Every such claim (other than claims of the Government), not made within the time and in the manner hereby required, shall be deemed, for all purposes, and on all occasions, to have been duly discharged.

11. The special Judge shall hear the zamindár, or, when the application has been made on behalf of a disqualified proprietor, shall hear the manager of his property, or the Deputy Commissioner, as the case may be, in answer to each claim so made; and, if the amount of any such claim (other than a claim decreed by a competent Court) is disputed, shall inquire into the history and merits thereof from the commencement of the transactions between the parties, and shall, as hereinafter provided, determine the amount (if any) justly due to the claimant.

12. When the special Judge inquires, under section eleven, into the history and merits of a claim, he shall—

notwithstanding any agreement between the zamindár and the claimant, or the persons (if any) through whom they claim, as to allowing compound interest, or as to setting off the profits of mortgaged property in lieu of interest without an account, or otherwise determining the manner of taking the account, and

notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

open the account from the commencement of the transactions between the parties, and take that account according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken;

(b) in the account of principal, there shall be debited to the zamindár such money as may, from time to time, have been actually received by him, or on his account, from the claimant, and the price of goods (if any) sold to him by the claimant, as part of the transactions between them;

(c) in the account of principal, there shall not be debited to the zamindár any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure;

(d) in the account of principal, there shall not be debited to the zamindár any accumulated interest which has been converted into principal at any statement or settlement of account, or by any contract made in the course of the transactions, unless the special Judge, for reasons to be recorded by him in writing, deems such debit to be reasonable;

(e) in the account of interest, there shall be debited to the zamindár monthly simple interest on the balance of principal for the time being outstanding, at the rate allowed by the special Judge as hereinafter provided;

(f) all money paid by, or on account of, the zamindár to the claimant or on his account, and all profits, service, or other advantages of every description received by the claimant in the course of the transactions, shall be credited first in the account of interest; and, when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the zamindár in the account of principal:

Explanation—The advantages mentioned in this clause shall be estimated, if necessary, at such money-value as the special Judge may determine in his discretion, or with the aid of arbitrators appointed by him;

(g) the accounts of principal and interest shall be made up to the date of making the claim; and the aggregate of the balances (if any) appearing due on both such accounts against the zamindár at that date, shall be deemed to be the amount due at that date, except when the balance appearing due on the account of interest exceeds that appearing due on the account of principal, in which case double the latter balance shall be deemed to be the amount then due.

13. The interest to be awarded in taking an account, according to the rules set forth in section twelve, shall be—

(a) the rate (if any) agreed upon between the zamindár and the claimant, or the persons (if any)

through whom they respectively claim, unless such rate is deemed by the special Judge to be unreasonable; or

(b) if such rate is deemed by the special Judge unreasonable, or if no rate was agreed upon, or, when any agreement to set off profits in lieu of interest without an account, entered into between the zamindár and the claimant, or the persons (if any) through whom they respectively claim, has been set aside by the special Judge, such rate as the special Judge deems reasonable.

14. If the amount so determined to be due cannot, in the opinion of the special Judge, be paid at once, he shall then proceed to rank the claims according to the order in which they shall be paid or discharged, and to fix the interest (if any) to be paid on the amounts thereof respectively from the date of the final decision thereon to the date of the payment and discharge thereof.

15. When the amount of the claims has been finally determined in the manner hereinbefore prescribed, the special Judge shall submit a report to the Commissioner, showing the nature and amount of the claims so determined, and also the nature and amount of all the zamindár's property (exclusive of his proprietary rights in land and the property mentioned in the first proviso to section 258 of the Code of Civil Procedure), which may be available for the payment or discharge of the same.

CHAPTER V.

PROCEDURE OF COMMISSIONER AND MODE OF LIQUIDATION.

16. On receiving such report, the Commissioner

shall direct that the property reported by the special Judge, as available for the discharge of the claims determined by him, or any specified portion of such property, be sold by public auction, and, from the proceeds thereof, shall pay or discharge, so far as practicable, the amount of the said claims.

If such proceeds are not sufficient to pay or discharge in full such amount, the Commissioner shall direct the value of the zamindár's proprietary rights in land, to be ascertained in the manner following :—

For the purposes of a loan, the value of such rights shall be estimated to be a sum amounting to six times the nett annual profits of such zamindár.

For the purposes of purchase by Government, the value of such rights shall be estimated to be a sum amounting to ten times such nett annual profits.

Explanation—The expression "nett annual profits" means the aggregate amount—

(a) of the rents which a zamindár is entitled to receive as such annually from his tenants;

(b) of all profits received by him as zamindár, and of the rent which he would have to pay for his sir-land (if any), if he were an exproprietary tenant thereof,

after deducting, from such aggregate amount, the Government revenue and all rates payable by him, under the North-Western Provinces Local Rates Act, 1878, or any other Act for the time being in force.

17. When the value of the zamindár's proprietary rights has been ascertained as directed in section sixteen, the Commissioner

Proceedings in liquidation.

shall proceed as follows:—

(a) If the sum at which the zamindár's proprietary rights in land have been valued for the purposes of a loan, is sufficient to pay or discharge the balance of the said claims, the Commissioner may, with the consent of the zamindár, direct such sum as may be necessary, not being more than the amount of such valuation, to be advanced from the public treasury as a loan to the zamindár, and shall, from the sum so advanced, pay or discharge in full the balance of the said debts and liabilities.

(b) If the zamindár does not consent to accept such loan, the Commissioner may direct that any portion, or, if necessary, the whole, of such rights, shall be sold in the manner hereinafter prescribed, in order to discharge such balance. Out of the proceeds of such sale, the Commissioner shall, so far as practicable, discharge such balance.

(c) If the sum at which the zamindár's proprietary rights in land have been valued, for the purposes of a loan, is not sufficient to discharge the balance of the said debts and liabilities, the Commissioner may order his proprietary rights in land to be sold, in the manner hereinafter prescribed.

The purchaser, under this section, of the zamindár's proprietary rights shall take the same free of all encumbrances created by such zamindár, or the person through whom he claims.

18. When an order for the sale of the proprietary rights of any zamindár has been made hereunder, the Commissioner may order such rights to be attached and taken under the management of the Deputy Commissioner, who shall have, for this purpose, the same powers as are conferred, for the management of a mahál, on a Collector by the North-Western Provinces Land-revenue Act, 1873, section one hundred and fifty-five.

Such management shall continue until such rights are sold hereunder.

19. All sales, under this Act, of proprietary rights in land, shall be made by public auction in the manner prescribed by the said North-Western Provinces Land-revenue Act, 1873, for the sale of

Mode of selling proprietary rights.

immovable property for arrears of land-revenue. If, at the public auction of any zamindár's proprietary rights in land, any bid be made for such rights above the sum at which they have been valued for the purposes of purchase by Government, such rights shall be sold to the highest bidder; and the proceeds of such sale shall be paid to the Deputy Commissioner or such officer as the Commissioner may direct. If no such bid be made, the Commissioner shall direct a sum of money equal to the amount of such valuation to be paid from the public treasury to the Deputy Commissioner or such officer.

20. The Deputy Commissioner or such officer, as the case may be, shall thereupon, subject to the control of the Commissioner,—

Duty of Deputy Commissioner.

firstly—pay, from the money which he has received under section nineteen, the debts, fines and liabilities (if any) due or incurred by the zamindár to the Government;

secondly—pay all costs awarded against the zamindár by the special Judge or Commissioner;

thirdly—out of the balance of such money, pay or discharge, so far as may be practicable, the claims against the zamindár determined by the special Judge in the order in which they are ranked under section fourteen by such Judge;

fourthly—pay the surplus (if any) to the zamindár.

21. When a sum of money has been lent, under section seventeen, to a zamindár, and applied in payment or discharge of the claims against him, the following consequences shall ensue (namely):—

(a) his proprietary rights in land shall be deemed to be mortgaged to the Secretary of State for India in Council, until such loan shall have been fully paid off;

(b) he shall be bound to repay the amount of such loan, with interest thereon at the rate of five per cent. per annum, by yearly instalments, within such term, not exceeding ten years, as the Commissioner may prescribe;

(c) in the event of his failing to pay any such instalment of principal or interest on the day fixed for the payment thereof, the whole sum remaining due on account of principal or interest, or both, shall be recoverable as an arrear of land-revenue due by him.

22. When a sum of money has been paid from the public treasury, as provided in section nineteen, and applied towards paying or discharging the claims against

Conditions of purchase by the Government.

a zamindár, the following consequences shall ensue (namely) :—

(a) his proprietary rights in land shall vest in the said Secretary of State in Council;

(b) in respect of his sár-land, the proprietary rights in which are, under this section, vested in the said Secretary of State in Council, the zamindár shall be deemed to be an ex-proprietary tenant holding such land directly under the Government.

23. In each of the following cases (namely) :—
Power to declare that zamindár has ceased to be subject to disabilities.

(a) when the amount lent, under section seventeen, to a zamindár has been repaid, together with the interest due thereon, or

(b) when such amount has been recovered from him as an arrear of land-revenue or has been remitted, in whole or in part, by the Local Government, or

(c) when the whole, or, where it is necessary to sell only a portion, such portion, of his proprietary rights in land has been sold under this Act to the highest bidder, or such rights have vested in the said Secretary of State in Council, under section twenty-two;

the Commissioner shall declare that such zamindár has ceased to be subject to the disabilities mentioned in section eight, clause (c) :

Provided that in cases coming under clause (b) of this section, no such declaration shall be made without the previous sanction of the Local Government.

CHAPTER VI.

OF APPEAL AND REVISION.

24. An appeal against any decision or order, under this Act, of the special Judge shall lie to the Commissioner, Appeals. if preferred within one month from the date of such decision or order :

Provided that when the Appellant satisfies the Commissioner that he had sufficient cause for not presenting the appeal within such period, such appeal may be admitted after the period prescribed by this section.

Subject to the power of revision next herein-after provided, the decision of the Commissioner on an appeal, under this section, shall be final.

25. The Board of Revenue or the Commissioner may, of its or his own motion, or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon, consistent with the provisions herein contained, as it or he thinks fit :

Provided that nothing in this section shall empower the Commissioner to pass any order reversing or modifying an order previously passed by the Board of Revenue.

CHAPTER VII.

MISCELLANEOUS.

26. The Local Government may, from time to time, make rules consistent with this Act—
Power to make rules.

(a) to regulate the procedure in all cases under this Act ;

(b) to declare what shall, for the purposes of this Act, be deemed to be the vernacular language of any specified district ; and

(c) generally to carry out the provisions of this Act.

Such rules shall be published in the official Gazette, and, when so published, shall have the force of law.

27. Every investigation conducted by the special Judge, with reference to any claim made to him under this Act, or to any matter connected with such claim, shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code ; and the special Judge shall be deemed to be a public servant within the meaning of the said Code.

28. For the purposes of compelling the attendance of witnesses and the production of documents the special Judge shall have the powers conferred on a Civil Court by the Code of Civil Procedure.

29. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith pursuant to this Act.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Report of a Select Committee, together with the Bill, as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882:—

We, the undersigned Members of the Select Committee to which the Bill to consolidate

- Preliminary Note by the Commissioner, Jabalpur Division, Central Provinces, dated 1st September, 1873 [Paper No. 1].
 Note by Officiating Commissioner, Nagpur Division [Paper No. 2].
 Commentary by Officiating Commissioner, Nagpur Division [Paper No. 3].
 Note by Officiating Judicial Commissioner, Central Provinces, dated 15th October, 1879 [Paper No. 4].
 From Settlement-officer, Sirsa, dated 25th August, 1880, and enclosure [Papers No. 5].
 „ Commissioner, Haidarabad Assigned Districts, No. 4610, dated 18th September, 1880 [Paper No. 6].
 „ Gopal Narayan Ghatate and other mālguzars, Nagpur Division, dated 25th December, 1880, and enclosure [Papers No. 7].
 „ Lakshmi Narayana Pandit, Pleader, High Court, North-Western Provinces, dated 2nd March, 1881, and enclosure [Papers No. 8].
 „ Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 2283-112, dated 23rd January, 1881, and enclosure [Papers No. 9].
 „ Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 353-23, dated 1st February, 1881, and enclosure [Papers No. 10].
 „ Officiating Secretary to Chief Commissioner, Central Provinces, No. 3799-208, dated 19th October, 1881, and enclosure [Papers No. 11].

referred the Bill to a Committee composed of officers* belonging to the Central Provinces, whose report has been now under consideration. The amendments recommended by this Committee have received the unqualified support of the Chief Commissioner. They are of such a nature as to render it necessary to re-draft the Bill.

*Mr. C. H. T. Crosthwaite, Judicial Commissioner.

„ J. W. Neill, Commissioner, Nagpur.

„ J. W. Chisholm, Officiating Commissioner, Nerbada.

3. We have, accordingly, amended and re-cast the Bill, but the majority of us desire to reserve our opinion as to the expediency of making these amendments until the Bill has been republished in its present shape, and subjected to further criticism. The most important amendments, and those to which we desire to attract particular attention, are as follows:—

- (1.)—The Bill, as introduced, withdrew the power of making a distraint for rent, and practically compelled the landlord to sue a tenant on the produce of whose holding he wished to retain a lien for arrears of rent.

The Bill, as now amended, gives no right to distrain, but it maintains the landlord's lien on the produce for rent, and directs a Court executing a decree, other than for rent, by attachment and sale of the produce of a tenant's holding, to pay to the landlord, out of the proceeds of the sale, and before satisfying the decree-holder, any arrear of rent that may be due by the tenant, and likewise the instalment of rent falling due next after the usual date of harvesting the produce attached and sold.

It also allows a landlord, when an arrear is due to him, to prohibit the tenant, for a period of twenty-eight days, from removing the produce of the holding on which the rent is due. It is intended by this provision to give the landlord time to institute a suit and apply to the Court for an order to attach the produce. These provisions do not apply to rent due for a longer period than one year.

- (2.)—The Bill, as introduced, took away the right conferred at the settlement on those tenants who are known as absolute occupancy-tenants, of transferring their holdings.

The amended Bill maintains this class of tenants exactly in the position given to it at settlement.

- (3.)—The amended Bill stops the future growth of occupancy-right by operation of the twelve-year rule, but maintains in the enjoyment of that right those tenants who, at the passing of the Act, have acquired it.

- (4.)—The Bill, as introduced, established a class of protected tenants, the condition of protection being, *inter alia*, residence and cultivation of land in the village for five years. Tenants, who had not so qualified, it left to the landlord's discretion.

The amended Bill protects all ordinary tenants (*i. e.*, all tenants who have not absolute occupancy or occupancy-rights and are not sub-tenants) from capricious eviction.

- (5.)—The Bill, as introduced, provided for the determination of the rent of occupancy-tenants primarily on the basis of the settlement-rates and the customary rates paid by tenants of the same class; and fixed the rents so determined for the term of settlement, subject to enhancement or abatement on account of change in the value of the produce or in the productive power of the land.

It left the rent of protected tenants to be determined, in case of dispute, by the Courts, with reference to the rent paid by ordinary tenants. A rent so determined was only fixed from year to year.

The amended Bill adopts, for the determination of the rent of ordinary tenants, the principle of compensation for disturbance, giving the tenant from whom an increase of rent is demanded the option of agreeing to the enhancement, in which case his rent will be fixed for seven years, or of leaving the land, taking, as compensation, ten times the sum demanded as enhancement.

It provides that the rents of absolute occupancy-tenants shall not be raised during settlement.

It provides that the rents of occupancy-tenants, *i. e.*, those who have acquired rights under the twelve-year rule, shall be fixed at twenty-five per cent. below the rent paid by ordinary tenants for like land, and that, when the rent of such tenants has been fixed, it shall not be enhanced till after the expiry of a period of ten years.

In the case of all classes of tenants, the landlord is, at any time, entitled to an increase of rent if the productive power of the land has been increased by improvements made by such landlord, or if the area of the holding has been added to.

4. We recommend that the Bill, as now amended, be re-published in the *Gazette of India* and sent to the Local Government for publication in the local Gazette and translation into the vernacular languages; and that its re-consideration be postponed for a period of two months.

C. H. T. CROSTHWAITE.

WHITLEY STOKES.

W. W. HUNTER.

H. J. REYNOLDS.

The 16th March, 1882.

NO. II. THE CENTRAL PROVINCES TENANCY BILL, 1882.

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SCHEDULE.—ACTS REPEALED.

No. II.

A Bill to Consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Central Provinces Tenancy Act, 1882".

It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces, except those specified in the Scheduled Districts Act, 1874, Schedule I, Part VI;

and it shall come into force on such day as the said Chief Commissioner, with the previous sanction of the Governor General in Council, may by notification in the local official Gazette direct.

Bill, s. 2.

2. On and from such day the Acts mentioned in the schedule hereto annexed, shall be repealed so far as they relate to the territories to which this Act extends.

Bill, ss. 12, 78, 79, 82, 92.

But nothing contained in this Act, or in any Act hereby repealed, shall affect the rights or liabilities of tenants or landlords in the districts of Nimár, Chánda and Sumbalpúr, so far as such rights or liabilities have been determined by any order of the Governor General in Council made at the settlement of any such district.

All suits or applications instituted or made under any Act hereby repealed, and which, when this Act comes into force, are pending before any officer, before whom they would have been instituted or made, if this Act had been in force, shall, so far as may be, be deemed to have been respectively instituted or made hereunder.

Bill, s. 3.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(2) "tenant" means a person who holds land of another person, and is, or, in the absence of a contract to the contrary, would be, liable to pay rent for such land to such other person. But it does not include a mortgagee or a person who takes a lease of unoccupied land for the purpose of sub-letting it, or of land already in the occupation of cultivators.

Where such person, at the time of taking a lease of such land, is a tenant of any land included therein, he does not by reason only of such lease cease to be a tenant of the land so included:

(3) "landlord" means the person of whom a tenant holds land, and to whom such tenant is, or, in the absence of a contract to the contrary, would be, liable to pay rent therefor; but when the right to receive rent or any other right which a landlord is entitled as such to exercise, is, for the time being, vested in a person other than the person of whom the land is held, such other person shall be deemed to be the landlord in respect of the right so vested:

(4) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(5) "pay" and "payable" used with reference to rent, include "deliver" and "deliverable":

(6) "arrear" means an instalment of rent which is not paid on or before the date on which it is payable:

(7) "holding" means a parcel of land held by a tenant of a landlord under one lease or agreement:

(8) "improvement" means, with reference to a holding, any work which adds to the letting-value of such holding, without diminishing the value of any other part of the estate of the landlord of whom such holding is held; which is suitable to such holding and consistent with the purpose for which it was let; and which, if not executed on the holding, is either executed directly for its benefit or is, after execution, made directly beneficial to it:

It includes the reclaiming, enclosing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells, and water-channels as are ordinarily made by tenants.

Explanation.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(9) "Revenue-officer" means any Revenue-officer appointed under the Central Provinces Land-revenue Act, 1881, not being below the rank of Tahsildár, and includes also a Settlement-officer:

(10) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified District or Districts, from time to time, appoint:

(11) "sir-land" means (a) land recorded as "sir" in the papers of the last preceding settlement of the local area in which such land is situate; and (b) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years; and (c) waste land which has been broken up by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years; and (d) in Sambalpur, includes also "bhogra" land.

Explanation.—Land which has, after the date of such settlement, or the expiry of such period of twelve years, or six years (as the case may be), been for a period of six consecutive years unoccupied by such proprietor is not sir-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sir-rights.

(12) "mahál" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of the Central Provinces Land-revenue Act, 1881, to be a mahál:

(13) "village" includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Chief Commissioner declares to be a village for the purposes of the Central Provinces Land-revenue Act, 1881:

(14) "lambardár" means a person appointed under the Central Provinces Land-revenue Act, 1881, to represent the proprietary body of a mahál in its relations with the Government:

(15) "record-of-rights" includes the supplementary administration-paper prepared at or after the time of making a settlement before the Central Provinces Land-revenue Act, 1881, came into force.

CHAPTER II.

OF THE CLASSES OF TENANTS, AND THEIR ORDINARY RIGHTS AND LIABILITIES.

4. There shall be four classes of tenants:—

- (1)—Absolute occupancy-tenants;
- (2)—Occupancy-tenants;
- (3)—Ordinary tenants;
- (4)—Sub-tenants.

A.—Rights and Liabilities common to all Classes of Tenants.

5. In all suits and proceedings between landlord and tenant, the rent payable for any year by a tenant, in respect of his holding, shall be deemed to be the rent payable, in respect of such holding, in the year immediately preceding such year, unless a different rent has been agreed upon, in writing, by the landlord and the tenant, or has been fixed by an order under this Act. Bill ss. 4, 66.

6. When the rent of a holding is fixed by any order under this Act, such order shall take effect from the commencement of the agricultural year next following the date of the application upon which such order is made. Provided that, if such application is made on the ground of an increase, or diminution, of the area of a holding, the order shall take effect from such date as the officer making it may direct. Bill, s. 5.

7. Rents shall be payable in such instalments and on such dates as the Chief Commissioner may, from time to time, by rule prescribe, and in the absence of such rule, according to local usage. Bill, 6.

8. In the absence of any person duly appointed to act on behalf of several persons who are joint proprietors of a mahál, the lambardár shall be deemed to be, for the purpose of this Act, the sole person entitled to grant leases to tenants, or enter into agreements with tenants as such, of the land held jointly by such proprietors, or to give receipts for the rent of such land, or to issue any notice, make any application, or being any suit, under this Act, to, in respect of, or against, any tenant of such land. Bill s. 46.

9. When two or more persons are the joint landlords of any tenant, such tenant, subject to any rule which the Chief Commissioner may, from time to time, make in this behalf, shall not be compelled to pay part of the rent of his holding to one of such persons and part to another or others; and such persons shall, if the tenant so desires, appoint one of their number, or some other person, to receive the rent of such holding. Bill, s. 47.

10. When any landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant, and when any tenant, in the case mentioned in section nine, desires the appointment of a person to receive rent payable in money and no such appointment is made within a reasonable time, and when any tenant in any other case is doubtful as to the person entitled to receive such rent from him, such tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of Bill, s. 7.

rent which he believes to be due;* and such officer shall receive such deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application and that it was made in good faith.

Bill, s. 8.

11. When any deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord on account of rent due.

Deposit to be deemed a payment to the landlord.

The officer receiving such deposit may pay the amount thereof to any person appearing to him to be entitled to receive the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

Revenue-officer how to deal with deposit.

No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing herein contained shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

Bill, s. 9.

12. Every tenant, from whom any sum is levied by his landlord in excess of the rent specified in his lease, or payable under the provisions of this Act, shall be entitled to recover from such landlord a sum not exceeding double the amount so levied.

Penalty for exaction by landlord.

Bill, s. 9.

13. When any landlord refuses a receipt for rent paid by a tenant, or grants such receipt but refuses or neglects to specify therein

For not giving receipt.

the period or crop in respect of which the payment is made, such tenant shall be entitled to recover from such landlord a sum not exceeding double the amount of the rent so paid.

Bill, s. 89, cl. (c).

14. Notwithstanding anything contained in this Act, or in the conditions of settlement, the rent of any tenant may, on the application of the landlord, be enhanced

Enhancement allowed when productive power of holding has been increased by landlord.

on the ground that the productive power of the tenant's holding has been increased through the agency or at the expense of the landlord. Such enhancement shall bear the same proportion to such rent as the increase so effected in the productive power of the holding bears to the productive power of the holding as it was immediately before such increase was effected.

The rent of an absolute-occupancy tenant shall not be enhanced under this section when the productive power of the holding has been increased by an improvement made by a landlord in contravention of any rule made hereunder.

Bill, s. 89, cl. (d).

15. When the area of a holding is increased or diminished by encroachment, fluvial action or otherwise, a Revenue-officer may, by

Power to fix rent when area of holding is altered.

order, on the application of the landlord or of the tenant, fix the rent payable in respect of such holding with reference to such increase or diminution:

Provided that such order shall not bar the landlord's claim to enhance the rent of such holding on other grounds allowed by this Act.

16. The rent of land assessed to land-revenue shall not be fixed for a

Agreement fixing rent on revenue-paying lands beyond term of settlement, voidable.

term exceeding the period of the settlement of such land.

All agreements made in contravention of this section shall, as regards the amount of rent, be voidable at the will of either party.

17. In all cases in which a tenant has paid rent in kind, or on the estimated

value of a portion of the crop, or by rates varying with the crop, or partly in one of such ways and partly in another or others, the landlord or tenant may apply to commute such rent to a fixed money rent. Such application shall be made,

while the settlement of the district in which such tenant's holding is situate is in progress, to a Settlement-officer; and,

at any other time, to any revenue-officer specially empowered by the Chief Commissioner in this behalf.

On the receipt of such application, such officer shall determine the sum to be paid as money rent and shall order that the tenant shall pay, in lieu of paying his rent in kind or as aforesaid, the sum so determined. If the application is opposed, such officer may, for reasons to be recorded by him in writing, refuse to grant the same.

18. Any tenant not holding under a lease for a fixed period may, at the end

of any agricultural year, surrender his holding, or, with the consent of his landlord, any part thereof. But notwithstanding such surrender he shall continue to be liable for the year next following the date of such surrender for the rent of the holding or part surrendered, unless—

- he gives to his landlord, at least thirty days before the end of such agricultural year, notice in writing of such surrender; or
- he takes a new holding in the same village from the same landlord; or
- he ceases, at least thirty days before the end of such year, to reside in the village in which the surrendered holding is situate; or
- the landlord himself cultivates such holding or lets it to another tenant.

19. The produce of a holding in the occupation of a tenant shall be hypothecated for the rent payable in

Hypothecation of produce for rent.

respect thereof, and, if such produce is attached and sold in execution of a decree,

the Court executing the decree shall apply the net proceeds of the sale in the first instance to satisfy the landlord's claim (if any) for sums due to him in respect of the rent of such holding for the year immediately preceding the attachment, and for the instalment of rent which falls due next after the usual period of harvesting the produce attached.

20. Where an arrear is due from any tenant in respect of his holding, the landlord may, by notice, prohibit removal of produce. the landlord may, by notice to the tenant, prohibit the removal of the produce of such holding.

11, 1881. No such prohibition shall be made in respect of any sum claimed in excess of the rent payable by the tenant for such holding in the preceding year, unless the rent has been enhanced in accordance with the provisions of this Act, nor in respect of an arrear which has been due for a longer period than one year.

No such prohibition shall be made more than once in respect of the same produce.

21. Every notice under section twenty, shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is said to be due, and, when a sum in excess of the rent payable by the tenant in the last preceding year is claimed, the decree, order or agreement, as the case may be, for the payment of such sum.

The notice shall be served on the tenant, or other person who may be in charge of the produce on his behalf, and shall remain in force until the rent specified in such notice is paid, or, if such rent is not paid, until the expiry of twenty-eight days after such notice is so given.

22. Notwithstanding such notice, the tenant may reap, gather or store the produce of his holding, and do all other such acts as may be necessary for the due preservation of the same.

23. Any tenant on whom a notice in respect of the produce of his holding has been served under section twenty, and who, except for any of the purposes mentioned in section twenty-two, while such notice is in force, removes, attempts to remove, or abets the removal of, such produce from the place where it was standing, deposited or stored when such notice was served, and

any landlord who distrains or attempts to detain the produce of any holding, or prevents, or attempts to prevent, otherwise than in accordance with this Act, the removal of any produce of a holding by the tenant thereof, shall be punished with fine which may extend to five hundred rupees.

11, 1881. **24.** Whenever rent is taken by division of the produce, or by estimate or appraisal of the crop, if either the landlord or the ten-

ant neglects to attend, either personally or by agent, at the proper time for making such division, estimate or appraisal, or if there is a dispute regarding the division of the said produce, or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as such officer thinks fit, directing him to divide, estimate or appraise the crop.

25. When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section twenty-four, such officer may, in his discretion, direct such Commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting such assessors (if any), and the procedure to be followed in making such division, estimate or appraisal.

The Commissioner so appointed shall make the division, estimate or appraisal, in accordance with such instructions.

26. When a crop has been estimated or appraised under the foregoing provisions, such estimate or appraisal shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued. Such Revenue-officer shall consider the Commissioner's report, and after such hearing and enquiry (if any), as he may think necessary, shall pass order thereon either confirming or varying the estimate or appraisal, and the rent shall be payable in accordance with such order.

27. In sections nineteen to twenty-four (both inclusive) the produce of a holding means—

- (a) crops and other products of the earth standing or ungathered on such holding ;
- (b) crops, and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on such holding or a threshing-ground, or stored in the homestead of the village in which such holding is situated, or in which the tenant, whose holding it is, resides.

B.—Of Absolute Occupancy-tenants.

28. All tenants who, on the day when this Act comes into force, occupy any holding in respect of which they have been recorded in any record-of-rights made before such day as "absolute occupancy-rayats," or in terms equivalent thereto, shall be deemed to be absolute occupancy-tenants of such holding.

29. The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at the settlement of the district in which such hold-

ing is situate, and the rent so fixed, shall not be enhanced during the currency of such settlement, except under the provisions of section fourteen or section fifteen.

The rent payable in respect of his holding by any such tenant, when this Act comes into force, shall be deemed to have been fixed at the last preceding settlement of the district in which his holding is situate.

New:
Bill, no. 81,
82.

30. The right of an absolute occupancy-tenant in his holding shall devolve as if it were land, and shall be transferable by mortgage or sale or gift. Any mortgage of such right for a longer period than fourteen years made, after this Act comes into force, shall be deemed for the purposes of this Act to be a sale.

Right heritable and transferable after notice to landlord who may claim to purchase at fixed rate.

If an absolute occupancy-tenant intends to transfer his right in his holding by sale or gift, he shall give to his landlord a written notice of such intention, and the landlord may thereupon—

(a) within one month from the receipt of such notice, claim to purchase such right, at a price equal to five times the yearly rent payable in respect of the holding; or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to such rent for one year, and such sum shall be a charge on the holding sold.

Any transfer made in contravention of this section shall be void.

New.

31. An absolute occupancy-tenant shall not be liable to be ejected from his holding by his landlord as such for an arrear of rent or for any cause.

Absolute occupancy-tenant not liable to ejectment.

The right of such tenant in his holding shall be deemed to be hypothecated to the landlord for the rent thereof.

Right hypothecated or rent.

New.

32. When the right of an absolute occupancy-tenant in his holding is sold by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall, in respect of such holding, have the same rights as are reserved to him by section thirty in the case of a private sale.

Landlord's rights reserved in sales in execution of decree.

C.—Of Occupancy-tenants.

Bill, s. 75.

33. All tenants who, when this Act comes into force, have held the same land continuously for twelve years, otherwise than as absolute occupancy-tenants or sub-tenants, have a right of occupancy in, and shall be deemed to be occupancy-tenants of, such land; Provided that such land is not

(a) sir-land, or

(b) held in lieu of wages, or

(c) held under a written lease in which it is agreed that a right of occupancy in such land

shall not be acquired, or that the tenant shall quit the land at the termination of such lease.

Explanation I.—The occupation of the person from whom the tenant inherited his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

Explanation II.—When, by the custom of any village the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with such custom, from time to time, received in exchange for land previously held by him shall, for the purpose of calculating, under this section, the period of twelve years, be deemed to be the same land as the land which he held prior to such exchange.

34. When the rent of the holding of an occupancy-tenant has been fixed by agreement or under this Act, or under any Act hereby repealed, such rent shall not be enhanced until the expiry of ten years from the day on which it was so fixed, except when the settlement of the district in which such holding is situate is in progress, or under the provisions of section fourteen or section fifteen.

Rents only liable to enhancement at intervals of ten years.

35. When any occupancy-tenant dies, his right in his holding shall devolve as if it were land: Provided that no collateral relative of such tenant shall be entitled to inherit such right, unless at the death of such tenant he was a co-sharer in the holding.

Descent of occupancy-right, and right of transfer.

No right of occupancy shall be transferable in execution of a decree or otherwise than by voluntary transfer between persons in favour of whom, as co-sharers, such right originally arose, or who have become, by succession, co-sharers therein.

36. Subject to the provisions of section thirty-four, the rent payable by an occupancy-tenant may be fixed on the application either of the tenant or his landlord,

Rent of occupancy-tenants.

(a) when the settlement of the district in which such holding is situate is in progress, to a Settlement-officer;

(b) during the currency of the settlement of such district, to a Revenue-officer.

On such application the Settlement or Revenue-officer, as the case may be, may fix the rent at a rate, not more than three-fourths of the rate usually paid by ordinary tenants of holdings situate in the same or adjoining tahsils, for land of similar quality with like advantages.

When the land in respect of which an application is made under this section, has been improved in accordance with this Act by the agency or at the expense of the tenant of such land, the quality and advantages of such land shall, for the purposes of this section, be deemed to be the quality and advantages had and enjoyed by such land immediately before such improvements were made.

37. No occupancy-tenant shall be ejected from his holding, except in execution of a decree of a Civil Court.

(a) in a suit for arrears of rent; or,

(b) in a suit for compensation for diverting the land to non-agricultural purposes or for some other act or omission which by custom or contract not inconsistent with this Act or with any other law for the time being in force renders him liable to be ejected.

38. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging such land in accordance with such custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

39. If a tenant having a right of occupancy in any land ceases to hold such land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that such tenant has accepted such other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

D.—Of Sub-tenants.

40. A tenant who holds land from another tenant, is a sub-tenant of such land.

41. A sub-tenant shall hold on such terms as may be agreed upon between him and his landlord.

42. No sub-tenant shall be entitled to retain his holding after the determination of his landlord's interest in the land comprised therein; nor shall he have any claim, for compensation or otherwise, against any one but his own landlord on account of any loss arising to him from such determination.

E.—Of Ordinary Tenants.

43. All tenants who are not absolute occupancy-tenants or occupancy-tenants or sub-tenants, are ordinary tenants.

44. An ordinary tenant shall pay such rent as may, from time to time, be fixed by agreement between him and his landlord:

Provided that, after the rent has been so fixed, it shall not be liable to be changed, except under the provisions of section fourteen or section fifteen, or until the expiry of seven years from the date when it was so fixed.

45. An ordinary tenant shall not be ejected from his holding, except under a decree of a Civil Court, on one or other of the following grounds:

(a) that he has refused to agree to an enhancement of rent demanded by his landlord, in accordance with the provisions of this Act;

(b) that the land is needed for the execution of some work of permanent and general benefit to the village in which such land is situate or to the residents thereof;

(c) any ground mentioned in section thirty-seven clause (a) or clause (b).

46. An ordinary tenant who is ejected, under New clause (a) or clause (b) of section forty-five from his holding shall be entitled to receive from his landlord compensation for disturbance.

Such compensation shall be in addition to any compensation due to him hereunder on account of improvements, and shall amount,

(a) if the tenant is ejected under clause (a) of section forty-five, to a sum equal to ten times the yearly increase of rent demanded from him;

(b) if the tenant is ejected under clause (b) of section forty-five, to a sum calculated at the rate of one year's rent of the land from which he is ejected, for every year during which he has occupied such land, subject to a maximum limit of five years' rent.

47. The right of an ordinary tenant in his holding shall not be transferable, except with his landlord's consent, and, where it has not been transferred, shall cease to exist at the death of such tenant: Provided as follows:—

Tenancy not transferable, and, except when jointly cultivated by members of the same family, to lapse at death.

(a) the representative (if any) of a deceased ordinary tenant shall be entitled to occupy the holding of such tenant until the end of the agricultural year in which he died;

(b) if such representative be ejected, he shall be entitled to such compensation for improvements as such tenant would have been entitled to, had he been ejected;

(c) when two or more persons have jointly cultivated the same holding as ordinary tenants, the right shall not cease to exist until the death of the last survivor of such persons.

CHAPTER III.

OF IMPROVEMENTS AND COMPENSATION THEREFOR.

48. On the holding of an absolute occupancy-tenant, the tenant, and on the holding of any other tenant, the landlord of such tenant, shall be entitled to make improvements.

If a landlord or tenant, not being so entitled, desires to make improvements on a holding, he shall proceed in such manner as the Chief Commissioner may, from time to time, by rule direct.

Bill, s. 40;
Cl. 33 & 34
Vic. c. 46,
s. 4.

49. Every tenant who is ejected from his holding shall be entitled to compensation for improvements made by him or the persons under whom he claims, and for which compensation has not already been made.

Whenever a Court makes a decree or order for the ejectment of a tenant, it shall determine the amount of compensation due under this section to such tenant for improvements, and shall make the order of ejectment conditional on the payment of such amount to the tenant.

No compensation under this section for an improvement, shall be claimable in any of the following cases, namely:—

(a) where the tenant has made the improvement in contravention of any rule made under section forty-eight and for the time being in force;

(b) where the tenant, having contracted not to make such improvement without giving the landlord reasonable notice to make it, has made it without giving such notice.

Improvements made by a tenant before this Act comes into force, in lands other than sir-land, shall be deemed to have been made in accordance with rules made under section forty-eight, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Bill, s. 41.

50. In estimating the compensation to be awarded under section forty-nine for an improvement, the Court shall have regard—

(a) to the labour and capital expended by the tenant in making such improvement;

(b) to the amount by which the letting value, or the produce of the holding or the value of such produce is increased by such improvement;

(c) to the amount for which the improvement could have been made by the landlord; and

(d) to any reduction or remission of rent made by the landlord to the tenant in consideration of such improvement.

Bill, s. 42.

51. Compensation for improvements may be made in such manner as may be agreed upon by the landlord and the tenant, or may be paid in money by such instalments (if any) as the Court thinks fit.

CHAPTER IV.

JURISDICTION AND PROCEDURE.

Bill, s. 46.

52. No Court other than the Court of a Revenue-officer shall take cognizance of any dispute or matter in which any application of the

nature mentioned in this section might be made namely:—

(a) applications for the appointment of a receiver of rent (section nine);

(b) applications for permission to deposit rent in court (section ten);

(c) applications to enhance rent on account of improvements made by, or at the expense of, the landlord (section fourteen);

(d) applications to fix the rent of a holding the area of which has been increased or diminished (section fifteen);

(e) applications for the commutation of rents paid in kind (section seventeen);

(f) applications for a commission to divide, estimate or appraise a crop (section twenty-four);

(g) applications to fix the rent payable by an occupancy-tenant (section thirty-six);

(h) applications relating to such other matters as Revenue-officers are empowered to deal with under this Act.

On any such application being made to the Court of a Revenue-officer it may, subject to the provisions herein contained, grant such relief as the nature of the case requires.

53. In disposing of the matters referred to in section fifty-two, Revenue-officers shall, as nearly as may be practicable, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881.

From every order passed by a Revenue-officer in respect of any such matter, an appeal shall lie as if such order had been passed by such officer under the said Land-revenue Act.

54. Applications to fix the rent of an occupancy-tenant may be made, subject to the provisions of section thirty-four, at any time during the period of such tenant's occupation.

All other applications may be made at any time during the occupation of his holding by the tenant by or in respect of whom such applications are made.

55. In suits under this Act, the Code of Civil Procedure shall apply, as far as may be, to all proceedings for which no special procedure is herein provided.

56. Deputy Commissioners shall, as such, exercise all the powers conferred on a Revenue-officer by this Act.

The Chief Commissioner may, from time to time, confer upon any other Revenue-officer, either by name or by virtue of his office, all or any of such powers,

a. 100. 57. Except as provided in section fifty-two, Jurisdiction of Civil the Civil Courts shall have Courts. jurisdiction in all suits or proceedings between landlord and tenant: Provided that—

(a) no Judge of a Civil Court of original jurisdiction shall, unless he is also a Revenue-officer, hear any suit between a landlord and a tenant regarding any matter dealt with by this Act; and

(b) such suits shall be heard and determined only in such Courts, competent to try the same, as the Chief Commissioner may, from time to time, direct.

a. 101. 58. The Chief Commissioner may, from time to time, direct, that all suits, or any specified class of suits, between landlord and tenant shall not be registered in the registers kept under the Code of Civil Procedure for the registration of civil suits, but in such other separate registers as he may prescribe.

a. 102. 59. In suits under this Act between landlord and tenant, the plaintiff shall, in addition to the matters mentioned in section fifty of the Code of Civil Procedure, specify the area of the land, and, where the fields, comprised in the holding to which the suit relates, have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which such rent is payable; and, in suits for compensation for improvements, an accurate valuation and description of the improvements.

When the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate and sufficient description of such land and its boundaries shall be given in the plaint.

a. 103. 60. In suits and applications under this Act, Legal practitioners' fees the fees of a legal practitioner shall not be allowed as costs, unless the Court considers, for reasons to be recorded by it in writing, that such fees ought to be allowed.

a. 107. 61. No set-off shall be allowed in any suit under this Act, unless the amount claimed as a set-off has been determined by a decree or order of a competent Court.

a. 106. 62. In suits under this Act, for arrears of rent, interest on such arrears may be allowed up to judgment, at such rate not exceeding twelve per cent. per annum as the Court thinks fit.

a. 110. 63. When any such suit is decided, whether on No appeal in certain appeal or otherwise, by a arrear-cause. Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class, as defined in the Central Provinces Courts' Act, 1865, the decision shall not be subject to appeal, unless—

(a) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or

(b) a question relating to a title to land, or some interest in land, has been determined as between parties having conflicting claims thereto.

64. No suit for an arrear of rent shall be instituted after three years from the date when the arrear became due; and no other suit under this Act shall be instituted after one year from the date when the cause of action accrued.

No process of execution shall be issued on a decree under this Act after three years from the date of such decree, or, in the case of a decree for money, after three years from the date on which the money, to recover which execution is applied for, became payable under the decree.

65. If a decree for an arrear of rent is passed against a tenant other than an absolute occupancy-tenant, and remains unsatisfied at the end of the agricultural year in which such decree was passed, the landlord may apply to the Court, having authority to execute such decree, to eject such tenant; and the Court may thereupon cause a notice to be served on such tenant, informing him that if he does not pay the amount due under the decree within thirty days from the receipt of the notice, he will be ejected from his land.

If such amount be not so paid, the Court may, on proof of the service of such notice, eject such tenant from the land in respect of which the amount is due, or may allow the tenant such further period not exceeding thirty days as to it seems fit and may on the expiry of such further period, if such amount be not paid, eject him.

66. Where, in answer to a suit for an arrear of rent, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period for which the arrear is claimed has been diminished or destroyed by drought, hail or other calamity beyond his control, the Court in its decree may make such deduction from the amount claimed by the landlord, and direct payment of the amount decreed in such instalments (if any), as it may think fit, and may order that such decree shall not be executed by ejectment of the tenant from his holding.

In making such decree the Court shall have regard to—

- (a) the value of the produce of the holding for the whole agricultural year in which the arrear accrued;
- (b) the proportion which the amount of rent payable for such year by the tenant bears to such value.

If in any such suit it appears that the land-revenue of the village in which such holding is situate has been suspended or remitted on account of drought or other calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that, in the case of suspension, the produce of the holding has been diminished, and, in the case of remission, that such produce has been destroyed, by such calamity.

N.W. P.
Rent Act,
a. 149.

67. Whenever a decree is given for the ejectment of a tenant or the cancellation of his lease, on account of any act or omission by which the land in his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it thinks fit, allow him to repair such damage within one month from the date of the decree, or order him to pay such compensation within such time, or may make such other order in the case, as the Court thinks fit. If such damage be so repaired or compensation so paid, or order obeyed, the decree shall not be executed.

New.

68. When a landlord wishes to eject, under section forty-five, clause (b), an ordinary tenant, or to enhance his rent without his consent, such landlord shall serve through the Civil Court a notice on such tenant, on or before the thirty-first day of December next preceding the agricultural year in which such landlord desires to take possession of the land, or in which the enhancement is to take effect.

New.

69. When a Civil Court passes under clause (b) of section forty-five a decree for the ejectment of an ordinary tenant, it shall in its decree state the amount payable to the tenant as compensation under section forty-six, and such decree shall not be executed until the sum so payable has been deposited in Court by the landlord.

New.

70. If an ordinary tenant has been ejected under clause (b) of section forty-five from his holding, and the landlord within one year from the date of such ejectment fails to use proper diligence in the execution of the work for which such holding was taken, the Court, on the application of such tenant and on his refunding the sum paid to him under section forty-six as compensation, or so much of it as the Court may direct, shall reinstate him in the holding.

New.

71. When an ordinary tenant, on whom a notice of enhancement of rent has been served under section sixty-eight, refuses to agree to pay the enhanced rent, the landlord may institute a suit for ejectment in the Civil Court on or before the fifteenth day of March next after the date of such refusal.

Thereupon the Court shall fix a date for hearing the case, and shall issue a notice to the tenant, summoning him to appear on such date, and stating the yearly increase of rent asked by the landlord and the sum payable to the tenant as compensation under section forty-six, clause (a).

New.

72. On the appearance of the parties on the date fixed, the Court shall require the tenant to agree, or refuse to agree, to pay the enhanced rent.

If he agrees to pay such rent, his agreement shall thereupon be recorded, and he shall be liable to pay the enhanced rent from the commencement of the agricultural year next following the date of such agreement.

If he refuses, the Court shall pass a decree for his ejectment on condition that within fifteen days from the date of the decree the landlord deposits in Court the sum payable to the tenant as compensation under section forty-six, clause (a).

73. If such sum is so deposited, the order of ejectment shall be made absolute and the sum deposited shall be paid to the tenant. If such sum is not so deposited, the decree shall become null and void, and the tenant shall remain in occupation of his holding at the rent previously paid by him.

74. The following rules shall be applicable in the case of every tenant ejected from a holding in accordance with the provisions of this Act—

(a) when the tenant has, previous to the date of his ejectment, sown or planted crops in any land comprised in such holding he shall be entitled, at the option of the landlord, either to retain possession of such land and to use it for the purpose of tending and gathering in such crops; or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing such land and sowing, planting and tending such crops;

(b) when the tenant has, previous to the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in such land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing such land:

Provided that no tenant shall be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after proceedings had been taken by the landlord for his ejectment, he has cultivated or prepared such land contrary to local usage.

75. When a landlord elects, under section seventy-four, clause (a), to allow a tenant to retain possession of any land for the purpose specified in that clause, such tenant shall pay to such landlord, for the use and occupation of such land during the period for which he is allowed to retain possession of the same, such rent as the Court may deem reasonable.

76. Notwithstanding the provisions of section sixty-one, in all suits for ejectment, the Court shall inquire into and determine all claims under this Act, by the landlord against such tenant, or by such tenant against the landlord.

77. When it appears to a Court making such

Procedure when, on ejection, money has to be paid by the landlord to the tenant.

inquiry that the amount payable under this Act by the landlord to the tenant exceeds the amount so payable by the tenant to the landlord, it shall, unless the landlord and tenant come to an arrangement regarding the payment of such excess sum, fix a time within which it must be paid into Court.

If such payment is made within the time fixed, the Court shall eject the tenant;

and if such payment is not so made within such time, it shall refuse to eject the tenant.

78. All decrees for ejection under this Act

Ejection decrees to have effect from beginning of agricultural year.

shall take effect from the beginning of the agricultural year next following the date of the order or decree, and shall be made subject to the conditions specified in sections forty-nine and seventy-four.

79. If any landlord or tenant desires that the

Applications to measure or ascertain condition of holdings.

extent of any holding should be ascertained, or that evidence relating to any improvement made in respect thereof, or to the state of such holding at any specified time, should be recorded, he may apply to a Revenue-officer, and such officer shall thereupon make, or cause to be made, such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, or shall record such evidence, as the case may be:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

CHAPTER V.

MISCELLANEOUS.

80. Every provision contained in any lease or

new: s. 45 Vic., cap. 49, s. 22.

Tenants may not contract out of the Act.

contract of tenancy or other contract, which provision is inconsistent with any of the provisions of this Act, or whereby a tenant agrees not to make, or to be ejected if he makes, improvements on his holding, or to forego any claim to compensation to which he is entitled hereunder, shall be void:

Provided that nothing in this section shall affect any agreement or lease whereby—

(a) waste-land is let for the first time, in so far as such agreement or lease fixes the rent of such waste-land for any period not exceeding the term of the current settlement;

(b) any tenant is secured in the enjoyment of rights greater than those given to tenants of his class under this Act.

Certain entries in record-of-rights to be void.

81. All entries in the record-of-rights of any village providing—

(a) that landlords shall be entitled to prevent tenants from making, or to eject them for making, improvements on their holdings, or to demand increased rent from them in respect of any such improvements; or

(b) that tenants ejected from their holdings shall not be entitled to compensation for improvements in cases in which they would, under this Act, be entitled to such compensation,

shall be void.

Cases in which ex-proprietors become occupancy-tenants of their sir.

82. Every person whose proprietary rights in land are, after this Act comes into force, transferred in any of

the following cases:—

(a) when he sells such rights without expressly agreeing to transfer his right to cultivate sir-land contained in the land;

(b) when such rights in land are sold for an arrear of land-revenue;

(c) when such rights are sold in execution of any decree which does not expressly convey his rights in the sir-land contained in the land,

shall have the rights of an occupancy-tenant in the land cultivated by him as sir at the date of such transfer.

Rules by Chief Commissioner.

83. The Chief Commissioner may, from time to time, make rules, consistent with the provisions of this Act, for the guidance of all persons in matters connected with the enforcement thereof.

SCHEDULE.

(See section 2.)

ACTS REPEALED.

Number and year of Act.	Short title.
Act X of 1869	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.
Act XIV of 1863	To amend Act X of 1859.
Act XXII of 1872	To explain and amend Act X of 1859.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

(Third Publication.)

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th March, 1882, and was referred to a Select Committee:—

No. 6 OF 1882.

A Bill to provide for the grant of licenses to Pilots in British Burma and for investigating certain charges against them.

WHEREAS it is expedient to provide for the grant of licenses to pilots in British Burma, and for investigating certain charges against them; It is hereby enacted as follows:—

1. This Act may be called "The British Burma Pilots Act, 1882":

It extends to the territories for the time being administered by the Chief Commissioner of British Burma;

and it shall come into force at once.

2. In this Act—

"Port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act,

1875, is for the time being in force.

Licensing of Pilots.

3. The Chief Commissioner may, from time to time, appoint competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and to make rules for the licensing of pilots.

- (a) for the conduct of such examinations and for the qualifications to be required;
- (b) for the grant to qualified persons of licenses to act as pilots; and
- (c) for the fees to be paid for such examinations and licenses.

4. No person shall act as a pilot at any port, unless he holds a license granted under section three, authorizing him to act as a pilot at such port.

5. Any person acting as a pilot in contravention of the provisions of section four shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Investigations into charges against Pilots.

6. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, by notification in the *British Burma Gazette*, make rules to regu-

late the conduct of pilots licensed hereunder in all matters connected with the performance of their duties as such pilots.

Any such rule may contain a provision that a pilot committing a breach of such rule shall be punished with the suspension or cancellation of his license, or with the change of his license from a higher to a lower grade.

7. If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed hereunder with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section six, he may direct a Court to be constituted, under this Act, at a port at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and shall then transmit a statement of such grounds to such Court and direct such Court to make an investigation into such charge.

The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate the powers conferred on him by this section to any person at any port.

All proceedings of any person in exercise of the powers so delegated shall be subject to the confirmation of the Chief Commissioner.

8. Every Court constituted under this Act shall consist of a President sitting with three assessors.

9. The President shall be such person as the Chief Commissioner, by notification in the *British Burma Gazette*, appoints in this behalf, either generally or for any specified case.

Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

10. One of the said assessors shall be a master of a sea-going vessel lying in the port at which the investigation is to be made: another shall be a merchant residing at such port: and the third shall be a pilot of not less than five years' service.

11. The assessor who is the master of a sea-going vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the President.

The other assessors shall be summoned by the President in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette*. If there are no such lists, or if it is impracticable to procure the attendance of two persons, one of whom is named in such list of merchants, and the other in such

Draft s. 5.
Cf. I. M. S.
Bill (No.
111), s. 141.

Draft s. 8.

Draft s. 9.
Cf. Act VII
of 1880, s.
13.

Draft s. 7.
Cf. Act VII
of 1880, s.
14.

Draft s. 9.

Draft s. 12.
Cf. Act VII
of 1880, s.
15.

list of pilots, such other assessors or assessor, as the case may be, shall be appointed and summoned by the President.

Draft s. 13. 12. The assessors shall receive such fees as the Chief Commissioner may, from time to time, by rule prescribe.

Draft s. 20: Cf. I. M. S. Bill No. 111, s. 141, para. 2. 13. Before commencing any investigation under this Act the Court shall cause the pilot charged to be furnished with a copy of the statement transmitted, under section seven; to such Court by the Chief Commissioner.

New: Cf. I. M. S. Bill (No. 111), s. 142. 14. For the purpose of an investigation under this Act the Court may summon such pilot to appear before it and shall give him full opportunity of making a defence, either in person or otherwise.

Draft s. 18: Cf. I. M. S. Bill (No. 111), s. 143. 15. For the purpose of any investigation under this Act the Court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents, and the regulation of the proceedings, have the same powers as are exercisable by the principal Court of original criminal jurisdiction for the place at which the investigation is made.

Draft s. 21. 16. Upon the completion of the investigation the Court shall give its decision. Such decision shall be according to the opinion of the majority of the members of the Court, or, if the Court is equally divided, according to the opinion of the President and the member with whom he concurs. In the latter case, any member who does not concur in the decision of the Court may separately record his opinion.

Draft s. 22. 17. If, by such decision, the pilot is found guilty of the charge, or of any one or more of the charges, made against him, the President shall sentence him,

(a) if the act or omission of which the pilot has been found guilty is an act or omission in breach of a rule made under section six, to such penalty as may be prescribed by such rule, or

(b) if the act or omission of which the pilot has been found guilty is any other act or omission, to such penalty, by way of suspension or cancellation of license, or by way of change of license from a higher to a lower grade, as the President thinks fit.

18. If, by such decision as aforesaid, the pilot is found not guilty of the charge or charges made against him, the President shall declare him acquitted of the same.

19. Every sentence passed, under section seven, by the President shall be subject to the confirmation by the Chief Commissioner, to whom the proceedings of the Court shall be submitted by the President.

20. The Chief Commissioner may, in his discretion, remit the whole or any part of such sentence, or direct the substitution of mitigated punishment in lieu of the punishment awarded by the said Court.

21. If the President is of opinion that the decision of the majority of the members of the Court is manifestly contrary to the evidence, or that the investigation is otherwise insufficient, the President, instead of passing sentence on the pilot charged, or declaring him acquitted, as the case may be, may certify such opinion to the Chief Commissioner, and the Chief Commissioner may thereupon either order a new investigation before other assessors, or acquit the said pilot, as he thinks fit.

22. Notwithstanding the provisions herein contained, when a charge of misconduct or incompetency is made against any pilot licensed hereunder, the Chief Commissioner may, without holding an investigation under this Act into such charge, pass such orders thereon as he thinks proper, and may sentence such pilot to such penalty as he might be sentenced to under section seventeen.

23. The Chief Commissioner may, from time to time, make rules to carry into effect the provisions of this Act, with respect to the Court for making investigations into charges against pilots, and in particular with respect to—
(a) the mode in which the President shall, under section eleven, summon the assessors;
(b) the amount of the fees to be paid to the assessors; and
(c) the procedure of the said Court.

All such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

STATEMENT OF OBJECTS AND REASONS.

THE Pilot Rules at present in force at the ports of British Burma have not the force of law. So far as they relate merely to the appointment and duties of pilots, the want of legal sanction does not appear to be of importance, as these matters can be arranged for executively. The rules, however, provide also for the holding of courts for the trial and punishment of pilots guilty of misconduct in the performance of their duties, and in so far as they relate to such matters require something more than the authority of mere executive orders for their due enforcement. At Calcutta, where the subject of the appointment and duties of pilots has, as in Burma, been provided for executively, the subject of the trial and punishment of pilots has been dealt with by the Legislature, in a special Act (XII of 1859). It seems desirable that in Burma, also, this subject should be similarly dealt with.

The present Bill has, therefore, been prepared. It provides for the holding of investigations into charges of misconduct on the part of pilots. The constitution of the Courts of Enquiry, and the manner of selecting the members, are duly provided for, and power is given to the Chief Commissioner to make rules for conducting the proceedings. The authority of the Courts, and the confirmation required for their findings and orders, are also suitably defined. The Bill also prohibits any person from acting as a pilot in any port in British Burma, or in any navigable river or channel leading to any such port, unless he holds a license to act as a pilot granted by the Chief Commissioner. This seems desirable, as under the present law there is nothing to prevent a person from acting as a pilot without a license, except in ports to which section 38 of the Indian Ports Act, 1875, has been specially extended.

CALCUTTA;
The 9th February, 1882.

WHITLEY STOKES.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 3, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

(First publication.)

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31st May, 1882:—

No. 7 of 1882.

A Bill to modify temporarily certain provisions of the Petroleum Act, 1881.

WHEREAS there is reason to doubt whether the mode of testing petroleum prescribed by the Petroleum Act, 1881, is in all cases to be relied on in India, and it is therefore expedient, pending the removal of that doubt, or the adoption of an improved mode of testing petroleum, to afford, in respect of petroleum imported under certain guarantees as to its quality, some relief from the difficulties under which, owing to the said doubt, persons dealing in such petroleum might otherwise labour; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Petroleum Act, 1882.

It shall come into force at once, and shall continue in force only until the first day of January, 1883, or such later date as the Governor General in Council may, from time to time, by notification in the *Gazette of India*, fix in this behalf,

and as long as it continues in force shall be read with, and taken as part of, the Petroleum Act, 1881.

2. Whenever it appears to the Governor General in Council that certificates of any description are commonly granted in any place beyond the limits of British India in respect of petroleum exported from that place to British India and that a certificate of that description is sufficient to prove that the petroleum therein referred to would, if tested in the manner prescribed by the Petroleum Act, 1881, at the place from which it is exported, have a flashing point not below seventy-three degrees of Fahrenheit's thermometer, the Governor General in Council may direct that petroleum imported from that place and covered by a certificate of that description shall not be deemed to be dangerous petroleum.

While any such direction continues in force, petroleum to which it applies shall not be deemed to be dangerous petroleum.

STATEMENT OF OBJECTS AND REASONS.

COMMUNICATIONS received by the Government of India by telegraph within the last two or three weeks afford ground for apprehending that petroleum which, when tested in America and elsewhere in the manner prescribed by the Petroleum Act, 1881, flashes at a point above 73° Fahrenheit, may, when tested in the same manner on its arrival here, flash at a point below 73° Fahrenheit, and consequently have to be placed under the restrictions to which dangerous petroleum is subject. It has been suggested that this is probably due not to any want of care on the part of those applying the test in either country, but to the difference of climate. Steps have been taken with a view to having the matter fully inquired into; but as this will take some time, and as it is but fair that importers should in the meanwhile be relieved from the hardship to which they are exposed, it is proposed for the present to exclude from the class of dangerous petroleum all petroleum covered by a certificate granted at the place of export and of such a description that, in the opinion of the Governor General, it may be accepted as proving that the petroleum it refers to, if tested at the place of export according to our method, would be found to have a flashing point above 73° Fahrenheit.

C. P. ILBERT.

The 31st May, 1882.

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 10, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31st May, 1882:—

No. 7 of 1882.

A Bill to modify temporarily certain provisions of the Petroleum Act, 1881.

WHEREAS there is reason to doubt whether the mode of testing petroleum prescribed by the Petroleum Act, 1881, is in all cases to be relied on in India, and it is therefore expedient, pending the removal of that doubt, or the adoption of an improved mode of testing petroleum, to afford, in respect of petroleum imported under certain guarantees as to its quality, some relief from the difficulties under which, owing to the said doubt, persons dealing in such petroleum might otherwise labour; It is hereby enacted as follows:—

1. This Act may be called the Petroleum Act, 1882.

Short title.

It shall come into force at once, and shall continue in force only until the first day of January, 1883, or such later date as the Governor General in Council may, from time to time, by notification in the *Gazette of India*, fix in this behalf,

and as long as it continues in force shall be read with, and taken as part of, the Petroleum Act, 1881.

2. Whenever it appears to the Governor General in Council that certificates of any description are commonly granted in any place beyond the limits of British India in respect of petroleum exported from that place to British India and that a certificate of that description is sufficient to prove that the petroleum therein referred to would, if tested in the manner prescribed by the Petroleum Act, 1881, at the place from which it is exported, have a flashing point not below seventy-three degrees of Fahrenheit's thermometer, the Governor General in Council may direct that petroleum imported from that place and covered by a certificate of that description shall not be deemed to be dangerous petroleum.

While any such direction continues in force, petroleum to which it applies shall not be deemed to be dangerous petroleum.

STATEMENT OF OBJECTS AND REASONS.

COMMUNICATIONS received by the Government of India by telegraph within the last two or three weeks afford ground for apprehending that petroleum which, when tested in America and elsewhere in the manner proscribed by the Petroleum Act, 1881, flashes at a point above 73° Fahrenheit, may, when tested in the same manner on its arrival here, flash at a point below 73° Fahrenheit, and consequently have to be placed under the restrictions to which dangerous petroleum is subject. It has been suggested that this is probably due not to any want of care on the part of those applying the test in either country, but to the difference of climate. Steps have been taken with a view to having the matter fully inquired into; but as this will take some time, and as it is but fair that importers should in the meanwhile be relieved from the hardship to which they are exposed, it is proposed for the present to exclude from the class of dangerous petroleum all petroleum covered by a certificate granted at the place of export and of such a description that, in the opinion of the Governor General, it may be accepted as proving that the petroleum it refers to, if tested at the place of export according to our method, would be found to have a flashing point above 73° Fahrenheit.

C. P. ILBERT.

D. FITZPATRICK,
Secy. to the Govt. of India.

The 31st May, 1882.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 17, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31st May, 1882:—

No. 7 of 1882.

A Bill to modify temporarily certain provisions of the Petroleum Act, 1881.

WHEREAS there is reason to doubt whether the mode of testing petroleum prescribed by the Petroleum Act, 1881, is in all cases to be relied on in India, and it is therefore expedient, pending the removal of that doubt, or the adoption of an improved mode of testing petroleum, to afford, in respect of petroleum imported under certain guarantees as to its quality, some relief from the difficulties under which, owing to the said doubt, persons dealing in such petroleum might otherwise labour; It is hereby enacted as follows:—

1. This Act may be called the Petroleum Act, 1882.

Short title.

It shall come into force at once, and shall continue in force only until the first day of January, 1883, or such later date as the Governor General in Council may, from time to time, by notification in the *Gazette of India*, fix in this behalf,

and as long as it continues in force shall be read with, and taken as part of, the Petroleum Act, 1881.

2. Whenever it appears to the Governor General in Council that certificates of any description are commonly granted in any place beyond the limits of British India in respect of petroleum exported from that place to British India and that a certificate of that description is sufficient to prove that the petroleum therein referred to would, if tested in the manner prescribed by the Petroleum Act, 1881, at the place from which it is exported, have a flashing point not below seventy-three degrees of Fahrenheit's thermometer, the Governor General in Council may direct that petroleum imported from that place and covered by a certificate of that description shall not be deemed to be dangerous petroleum.

While any such direction continues in force, petroleum to which it applies shall not be deemed to be dangerous petroleum.

STATEMENT OF OBJECTS AND REASONS.

COMMUNICATIONS received by the Government of India by telegraph within the last two or three weeks afford ground for apprehending that petroleum which, when tested in America and elsewhere in the manner prescribed by the Petroleum Act, 1881, flashes at a point above 73° Fahrenheit, may, when tested in the same manner on its arrival here, flash at a point below 73° Fahrenheit, and consequently have to be placed under the restrictions to which dangerous petroleum is subject. It has been suggested that this is probably due not to any want of care on the part of those applying the test in either country, but to the difference of climates. Steps have been taken with a view to having the matter fully inquired into; but as this will take some time, and as it is but fair that importers should in the meanwhile be relieved from the hardship to which they are exposed, it is proposed for the present to exclude from the class of dangerous petroleum all petroleum covered by a certificate granted at the place of export and of such a description that, in the opinion of the Governor General in Council, it may be accepted as proving that the petroleum it refers to, if tested at the place of export according to our method, would be found to have a flashing point above 73° Fahrenheit.

C. P. ILBERT.

The 31st May, 1882.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th June, 1882, and was referred to a Select Committee:—

No. 8 of 1882.

THE PANJÁB UNIVERSITY BILL,
1882.

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PREAMBLE.

SECTIONS.

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2. Commencement.
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14. Senate to superintend the affairs of the University.
15. Chairman appointed.
16. Questions to be decided at meetings of the Senate.
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18. Appointment and removal of examiners and officers.
19. Power to confer degrees, &c., after examination.
20. Power to confer degrees on persons who have passed examinations at the Lahore University College in 1882.
21. Power to confer honorary degrees.
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23. Power to make rules.

THE SCHEDULE.

PART I.—OFFICES TO BE DEEMED TO HAVE BEEN SPECIFIED IN SECTION 6, CLAUSE (a).

PART II.—PERSONS TO BE DEEMED TO HAVE BEEN APPOINTED FELLOWS UNDER SECTION 6, CLAUSE (b).

A Bill to establish and incorporate the University of the Panjáb.

WHEREAS an Institution, styled at first the Lahore University College but subsequently the Panjáb University College, was established at Lahore in the year 1869 chiefly for the purpose of promoting the diffusion of European science, as far as possible, through the medium of the vernacular languages of the Panjáb, improving and extending vernacular literature generally, affording encouragement to the enlightened study of the Eastern classical languages and literature, and associating the learned and influential classes of the Province with the officers of Government in the promotion and supervision of popular education;

But it was at the same time provided that every encouragement should be afforded in that institution to the study of the English language and literature, and that in all subjects which could not be completely taught in the vernacular the English language should be regarded as the medium of examination and instruction therein;

And whereas this Institution was by a Notification, No. 472, dated 8th December, 1869, published in the *Panjáb Government Gazette* of the twenty-third day of December, 1869, declared to be so established in part fulfilment of the wishes of a large number of the Chiefs, Nobles and influential classes of the Panjáb, and it is now expedient, the said Institution having been attended with success, further to fulfil the wishes of the said Chiefs, Nobles and influential classes, by constituting the said Institution a University for the purpose of ascertaining, by means of examination or otherwise, the persons who, having studied in such Colleges as may be affiliated in manner hereinafter provided, have acquired proficiency in different branches of Literature, Science and Art, and for the purpose of conferring upon them academical degrees, diplomas, licenses and marks of honour;

And whereas it is also expedient that the University so constituted should be incorporated, and that the property, moveable and immoveable, which has been hitherto held by, or in trust for, the said Institution should become the property of the University, subject to all existing trusts as to the manner in which, and the purposes to which, that property or any part thereof is to be applied;

The draft Bill referred to is that annexed to Panjáb letter No. 1277, dated 80th March, 1881.

Draft Bill, s. 1.

It is hereby enacted as follows :—

1. This Act may be called the Panjáb University Act, 1882;
Short title.
Commencement. and it shall come into force at once.

cf. draft, s. 2.
cf. also 42 &
43 Vic., c. 65,
s. 2.

2. (1) A University shall be established at Lahore under the patronage of the Governor General for the time being.

Draft, s. 4:

Act II of

1857, s. 3.

cf. 42 & 43

Vic., c. 65, s. 3.

(2) The University so established shall consist of a Chancellor, a Vice-Chancellor and such number of Fellows as may be determined in manner hereinafter provided.

Draft, ss. 2 &

Act II of

1857, ss. 1 &

2.

cf. 42 & 43

Vic., c. 65, s. 3.

(3) The University shall be a Body Corporate by the name of the University of the Panjáb, having perpetual succession and a common seal, with power to acquire and hold property, moveable or immovable, to transfer the same, to contract, and to do all other things necessary for the purposes of its constitution.

(4) The University shall come into existence on such day as the Local Government may by notification in the official Gazette appoint in this behalf.

New.

cf. 42 & 43

Vic., c. 65, s.

12.

3. All the property, moveable and immovable, at present held by or in trust for the Panjáb University College shall, when this Act comes into force, become the property of the University, to be administered by it for the purposes of the University subject to all existing trusts as to the manner in which, and the purposes to which, that property or any part thereof is to be applied.

Draft, s. 5:

Act II of

1857, s. 4.

4. The Lieutenant-Governor of the Panjáb for the time being shall be the Chancellor of the University; and the first Chancellor shall be the Hon'ble Sir Charles Umpherston Aitchison, Knight Commander of the Most Exalted Order of the Star of India, Companion of the Order of the Indian Empire, Doctor of Laws.

Draft, s. 6:

Act II of

1857, s. 5.

5. The Vice-Chancellor shall be such one of the Fellows as the Chancellor may, from time to time, by notification in the local official Gazette, appoint in this behalf.

He shall hold office for two years from the date of his appointment, and on the expiration of his term of office may be reappointed.

Draft, s. 3.

Fellows.

6. The following persons shall be Fellows, namely :—

(a) every person who has held the office of Chancellor and all persons for the time being holding such offices under Government as the Chancellor may, from time to time, by notification in the local official Gazette, specify in this behalf ;
(b) persons whom the Chancellor may, from time to time, by like notification, appoint by name as being eminent benefactors of the Panjáb University, original promoters of the movement in favour of the establishment of the Panjáb University College, or persons distinguished for attainments in Literature, Science or Art, or for zeal in the cause of education ;

(c) such persons (if any) as may from time to time be elected by the Senate hereinafter constituted, and approved by the Chancellor ; and

(d) the representatives for the time being with the Government of the Panjáb of such Chiefs (if any) of territories not comprised in British India as the Lieutenant-Governor may, from time to time, by like notification, specify in this behalf :

Provided—

(1) that the whole number of the Fellows holding office under clauses (a), (b) and (c) exclusive of the Vice-Chancellor shall never be less than fifty ; and

(2) that the number of persons elected under clause (c) shall never exceed the number appointed under clause (b).

7. The Chancellor may, whenever he thinks fit, by a notification in the local official Gazette, cancel the appointment of any Fellow appointed under section six, clause (b), or cancel or amend any notification issued under section six, clause (a) or clause (d).

8. If a Vice-Chancellor leaves India without the intention of returning thereto, he shall thereupon cease to be Vice-Chancellor.

9. (1) James Broadwood Lyall, Esquire, of the Bengal Civil Service, and at present Financial Commissioner of the Panjáb, shall be deemed to have been appointed the first Vice-Chancellor under section five ; and his term of office shall expire on the first day of September, 1884.

(2) The offices specified in Part I of the schedule hereto annexed shall be deemed to have been specified in a notification issued under section six, clause (a) ; and

(3) the persons named in Part II of that schedule shall be deemed to have been appointed Fellows under clause (b) of that section.

10. (1) The Chancellor, Vice-Chancellor and Fellows for the time being shall form the Senate of the University.

(2) The Senate shall have the entire management and superintendence over the affairs of the University, concerns and property of the University, and shall provide for that management and exercise that superintendence at meetings convened in accordance with the rules made under this Act.

11. At every meeting of the Senate the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman ; and, in the absence of both, a Chairman shall be chosen by the Fellows present, or the majority of them.

12. Every question which comes before the Senate at a meeting shall be decided by a majority of the votes of the members present ; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote :

Provided that no question shall be decided at any such meeting unless fourteen Fellows at the least besides the Chairman are present at the time of the decision.

13. Subject to such rules as may be made under this Act, the Senate may from time to time appoint and remove all examiners, officers and servants of the University, and may also appoint a Syndicate.

14. (1) The Senate may confer on all persons who have gone through such previous course of instruction in an affiliated college, passed such examinations in the University, and fulfilled such other conditions as may be prescribed by the rules to be made under this Act,—

(a) the degrees of Bachelor of Arts, Master of Arts, and, if empowered by the Governor General in Council in this behalf, the degrees of Bachelor of Laws, Bachelor of Medicine, Doctor of Medicine and Master of Civil Engineering, as the case may be;

(b) such other degrees and such diplomas or licenses as may be prescribed by any rules made under this Act; and

(c) such marks of honour for a high degree of proficiency in the different branches of Literature, Science and Art as may be prescribed by rules made as aforesaid.

(2) "Affiliated College" in this section means such Colleges as may from time to time be affiliated to the University by an order of the Senate approved of by the Local Government and confirmed by the Governor General in Council.

(3) An order affiliating a College may be rescinded by an order similarly made, approved and confirmed.

15. Notwithstanding anything in section fourteen, the Senate may confer degrees, diplomas, licenses or marks of honour as provided by that section on all persons who have in the year 1852, and previous to the passing of this Act, passed such examinations prescribed by the Panjáb University College as may be sufficient to satisfy the Senate that they are persons qualified in point of learning to obtain those degrees, diplomas, licenses or marks of honour.

16. Notwithstanding anything hereinbefore contained, the Senate may grant a degree to any person without requiring him to undergo any examination for that degree:

Provided that the Vice-Chancellor, and not less than ten of the members of the Syndicate appointed under section thirteen (exclusive of the Vice-Chancellor, if a member of that Syndicate) certify in writing that in their opinion that person is, by reason of eminent position and attainments, a fit and proper person to receive such degree.

17. The Senate may charge such reasonable fees, on admission into the University, for continuance therein, and for the degrees, diplomas and licenses to be conferred by it, as the University,

with the approbation of the Chancellor, from time to time, thinks fit to impose.

18. (1) The Senate may from time to time make rules consistent with this Act touching—

(a) the mode and time of convening the meetings of the Senate;

(b) the appointment, removal and remuneration of the examiners, officers and servants;

(c) the appointment of the Syndicate;

(d) the previous course of instruction to be followed, the examinations to be passed, and the other conditions to be fulfilled by candidates for degrees, diplomas, licenses and marks of honour respectively;

(e) the conduct of examinations for the mode of granting, and the titles of, degrees, diplomas, licenses and marks of honour; and

(f) generally all matters regarding the University.

(2) All such rules shall be reduced into writing, and shall, after the common seal of the University has been affixed thereto, and they have been confirmed by the Lieutenant-Governor and sanctioned by the Governor General in Council, be binding on all persons, members of the University, or admitted thereto, and on all candidates for degrees, diplomas, licenses and marks of honour.

THE SCHEDULE.

(See Section 9.)

PART I.

Offices to be deemed to have been specified under section 8, clause (a):—

Judge of the Chief Court, Panjáb;
Financial Commissioner of the Panjáb;
Surgeon-General of the Panjáb;
Commissioner of Lahore;
Commissioner of Delhi;
Commissioner of Amritsar;
Accountant-General of the Panjáb;
Director of Public Instruction, Panjáb;
Principal of the Lahore Government College;
Principal of the Lahore Medical School;
Inspector of Schools;
Deputy Commissioner of Lahore;
Deputy Commissioner of Delhi;

PART II.

Persons to be deemed to have been appointed Fellows under section 8, clause (b):—

His Highness Maharájá Ranbir Singh, of Jammu and Kashmir, G.C.S.I., C.I.E., Counsellor of the Empress of India;
His Highness Maharájá Rájindar Singh, of Patiala;
His Highness Nawáb Sádik Muhammad Khán, of Baháwalpur, G.C.S.I.;
His Highness Rájá Raghbír Sing, of Jind, G.C.S.I., C.I.E., Counsellor of the Empress of India;
His Highness Rájá Hira Singh, of Nabha, G.C.S.I.;
His Highness Rájá Jagatjit Singh, of Kapurthala;
Rájá Bije Sen of Mandi;
Nawáb Ibrahim Ali Khán, of Máler Kotla;
Nawáb Abdul Majid Khán;

Sardár Ajít Singh, Atáriwála;
 Rai Amin Chand, Sardár Bahádúr;
 Maláz-ul-Ulma Sardár Atar Singh, C.I.E., of
 Bhadaur;
 Major-General Henry Prevost Babbage, Bengal
 Staff Corps, late Deputy Commissioner,
 Panjáb;
 David Graham Barkley, Esquire, M.A., Bengal
 Civil Service, Barrister-at-Law;
 Deputy Surgeon-General Henry Walter Bellew,
 C.S.I.;
 Reverend Edward Bickersteth, M.A.;
 Charles Boulnois, Esquire, Barrister-at-Law, late
 Judge, Chief Court, Panjáb;
 Sardár Bikrama Singh, C.S.I., Ahluwála;
 Arthur Brandreth, Esquire, Barrister-at-Law,
 late of the Bengal Civil Service, and Judge, Chief
 Court, Panjáb;
 Surgeon-Major Thomas Edwin Burton Brown,
 M.D.;
 James Scarlett Campbell, Esquire, late of the
 Bengal Civil Service, and Judge, Chief Court,
 Panjáb;
 Surgeon-Major William Center, M.D., M.A.;
 Reverend Robert Clark, M.A.;
 John Graham Cordery, Esquire, M.A., Bengal
 Civil Service;
 The Hon'ble Henry Stuart Cunningham,
 Esquire, M.A., Barrister-at-Law, Judge of the
 High Court, Calcutta;
 Surgeon-Major Alexander Morrison Dallas;
 Mansel Longworth Dames, Esquire, Bengal
 Civil Service;
 Deputy Surgeon-General Annesley Charles
 Castriot DeRenzy, B.A.;
 Sir Robert Henry Davies, K.C.S.I., C.I.E., late
 Lieutenant-Governor of the Panjáb and its De-
 pendencies;
 Colonel William George Davies, C.S.I.;
 Sir Robert Eyles Egerton, K.C.S.I., C.I.E.,
 Counsellor of the Empress, late Lieutenant-
 Governor of the Panjáb and its Dependencies;
 Dennis Fitzpatrick, Esquire, B.A., Bengal Civil
 Service, Barrister-at-Law;
 Reverend C. W. Foreman, D.D.;
 The Right Reverend Thomas Valpy French,
 D.D., Lord Bishop of Lahore;
 Munshi Ghulam Nabi;
 Surgeon-Major Robert Gray, M.B.;
 Major Leopold John Henry Gray, C.S.I., Bengal
 Staff Corps;
 Sir Lepel Henry Griffin, K.C.S.I., Bengal Civil
 Service;
 Pandit Gurn Parshád;
 Syad Hádi Husain Khan;
 Rája Harbans Singh;
 Kaur Harnám Singh, Ahluwála;
 Edward Piercy Henderson, Esquire, Bengal Civil
 Service, Barrister-at-Law;
 Surgeon-Major George Henderson, M.D.;
 Mir Hidáyat Ali Khán, Bahádúr;
 Lieutenant-Colonel William Rice Morland Hol-
 royd;
 Reverend W. Hooper, M.A.;
 Reverend T. P. Hughes, B.D.;
 Munshi Hukm Chand;
 Sodhi Hukm Singh;
 Denzil Charles Jelf Ibbetson, Esquire, B.A.,
 Bengal Civil Service;
 Rája Jahándád Khán, Khán Bahádúr, Ghakkar;
 Agha Kallabid;
 Fakir Syad Kamr-ud-din;
 Rai Bahádúr Kanhya Lal, C.E.;
 Khán Bahádúr Khán Muhammad Shah;

Bába Khem Singh, C.I.E., Bodi;
 John Lockwood Kipling, Esquire;
 Charles Robert Lindsay, Esquire, late of the
 Bengal Civil Service, and Judge, Chief Court
 Panjáb;
 Surgeon Edward Lawrie, M.D.;
 Gottlieb William Leitner, Esquire, M.A., PH.D.,
 LL.D.;
 Thomas Crampton Lewis, Esquire, M.A.;
 James Broadwood Lyall, Esquire, Bengal Civil
 Service;
 General Robert MacLagan, R.E., late Secretary
 to Government, Panjáb, Public Works Depart-
 ment;
 Colonel Charles Alexander McMahon;
 The Ven'ble Henry James Matthew, M.A.,
 Archdeacon of Lahore;
 Colonel Julius George Melley, R.E.;
 Philip Sandys Melvill, Esquire, C.S.I., late of
 the Bengal Civil Service, and Governor-General's
 Agent, Baroda;
 John Andrew Erasmus Miller, Esquire;
 Pandit Moti Lal, Káthju;
 Khán Bahádúr Muhammad Barkat Ali Khán;
 Muhammad Hyat Khán, C.S.I.;
 Khalifa Syad Muhammad Hussain;
 Rai Mul Singh;
 Násir Ali Khán, Kazilbásh;
 Náwáb Nawázish Ali Khán;
 Major Edward Newbery;
 Bábu Navina Chandra Rai;
 Edward O'Brien, Esquire, Bengal Civil Service;
 Henry Edmund Perkins, Esquire, Bengal Civil
 Service;
 Henry Meredith Plowden, Esquire, B.A., Barris-
 ter-at-Law;
 Major-General Charles Pollard, R.E.;
 Baden Henry Baden-Powell, Esquire, Bengal
 Civil Service;
 Edward Augustus Prinsep, Esquire, late of the
 Bengal Civil Service, and Settlement Commission-
 er, Panjáb;
 Honorary Surgeon Rahim Khán, Khán Bahádúr;
 Diwán Rám Náth;
 William Henry Rattigan, Esquire, M.A., PH.D.,
 Barrister-at-Law;
 Pandit Rikhi Kesh;
 Rája Sir Sahib Dyál, K.C.S.I.;
 Rai Bahádúr Sahib Singh;
 Leslie Seymour Saunders, Esquire, Bengal
 Civil Service;
 David Simson, Esquire, late of the Bengal Civil
 Service, and Judge, Chief Court, Panjáb.
 Brigade-Surgeon John Bareley Scriven, late
 Civil Surgeon, Lahore;
 John Sims, Esquire, B.A.;
 Surgeon-General Charles Manners Smith,
 late of the Indian Medical Service;
 John Watt Smyth, Esquire, Bengal Civil
 Service, Barrister-at-Law;
 Charles Henry Spitta, Esquire, LL.B., Barrister-
 at-Law;
 Thomas Henry Thornton, Esquire, D.C.L., C.S.I.,
 late of the Bengal Civil Service, and Judge,
 Chief Court, Panjáb;
 Thomas William Hooper Tolbort, Esquire,
 Bengal Civil Service, Barrister-at-Law;
 Charles Lewis Tupper, Esquire, B.A., Bengal
 Civil Service;
 Major Isaac Peatt Westmoreland, R.E.;
 Major-General Gordon Young;
 William Mackworth Young, Esquire, M.A.,
 Bengal Civil Service;
 Maulvi Zia-ud-din Khán.

STATEMENT OF OBJECTS AND REASONS.

IN the year 1869 the Governor General in Council was pleased, in accordance with the recommendations of the Lieutenant-Governor of the Panjáb, and in part fulfilment of the wishes of a large number of the chiefs, nobles and influential classes of the Panjáb, to sanction the establishment at Lahore of an institution, then styled the Lahore University College, but subsequently styled the Panjáb University College. The special objects of this College, as stated by its statutes, were as follows:—

- (1) to promote the diffusion of European science as far as possible through the medium of the vernacular languages of the Panjáb, and to improve and extend vernacular literature generally;
- (2) to afford encouragement to the enlightened study of Eastern classical languages and literature; and
- (3) to associate the learned and influential classes of the Province with the officers of Government in the promotion and supervision of popular education.

It was, however, at the same time laid down that every encouragement should be afforded to the study of the English language and literature, and that in all subjects which could not be completely taught in the Vernacular the English language would be regarded as the medium of examination and instruction.

At the time of the establishment of this College, promises were held out by Government that, if attended with due success, it might eventually be raised to the status of a University; and large sums of money have been, from time to time, given to the College by the chiefs and influential classes of the Panjáb, who have long looked forward to the fulfilment of these promises. As the College has, in the opinion of Government, been attended with due success, it has been determined to carry out what is believed to be the almost universal wish of the Natives of the Panjáb who are interested in education, and constitute the College a University.

2. The present Bill has, therefore, been prepared: Section 2 establishes the University, and confers on it all the powers of a body corporate. Section 3 provides for the transfer to the University of all the property at present held by or in trust for the University College. Sections 4 to 8 deal with the constitution of the University, and provide for a Chancellor, who is to be the Lieutenant-Governor of the Panjáb for the time being, a Vice-Chancellor to be appointed by the Chancellor, and a body of Fellows.

The Fellows will be of four classes, namely: (1) the holders for the time being of certain offices, who are to be *ex-officio* Fellows; (2) persons appointed by the Chancellor as being eminent benefactors of the University, original promoters of the movement in favour of the Panjáb University College, or persons distinguished for attainments in literature, science or art, or by zeal in the cause of education; (3) persons chosen by the Senate and approved by the Chancellor; and (4) the representatives for the time being with the Government of the Panjáb of such independent Native chiefs as the Lieutenant-Governor may by notification in the Gazette specify. The schedule annexed to the Act contains a list of the persons who are to be deemed to be the first Fellows. Sections 10, 11 and 12 provide for a Senate and matters connected therewith. Section 13 empowers the Senate to appoint and remove all examiners, officers and servants of the University. Section 14 empowers it to confer certain degrees, but restricts the exercise of the power to confer the degrees of Bachelor of Laws, Bachelor of Medicine, Doctor of Medicine and Master of Civil Engineering until the Governor General in Council has given his assent thereto; and section 15 gives it power to confer like degrees in the case of persons who may have passed during the year 1882 such examinations of the Panjáb University College as may correspond to the degree examinations of the University. Section 16 empowers the Senate to confer honorary degrees in certain cases; section 17 to levy fees; and section 18 to make rules generally in all matters regarding the University.

J. GIBBS.

The 7th June, 1882.

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 24, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th June, 1882, and was referred to a Select Committee:—

No. 8 of 1882.

THE PANJÁB UNIVERSITY BILL, 1882.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Commencement.
3. Establishment of University.
University to be a Body Corporate.
4. Property of Panjáb University College to vest in University.
5. Chancellor.
6. Vice-Chancellor.
7. Fellows.
Number of Fellows.
8. The appointment of a Fellow may be cancelled.
9. Office of Vice-Chancellor vacated by leaving India.
10. First Vice-Chancellor and Fellows appointed.
11. Chancellor, Vice-Chancellor and Fellows to form Senate of the University.
Senate to superintend the affairs of the University.
12. Chairman appointed.
13. Questions to be decided at meetings of the Senate.
Number of members to be present at meeting of Senate.
14. Appointment and removal of examiners and officers.
15. Power to confer degrees, &c., after examination.
16. Power to confer degrees on persons who have passed examinations at the Lahore University College in 1882.
17. Power to confer honorary degrees.
18. Power to levy fees.
19. Power to make rules.

THE SCHEDULE.

PART I.—OFFICES TO BE DEEMED TO HAVE BEEN SPECIFIED IN SECTION 6, CLAUSE (a).

PART II.—PERSONS TO BE DEEMED TO HAVE BEEN APPOINTED FELLOWS UNDER SECTION 6, CLAUSE (b).

A Bill to establish and incorporate the University of the Panjáb.

WHEREAS an Institution, styled at first the Lahore University College but subsequently the Panjáb University College, was established at Lahore in the year 1869 chiefly for the purpose of promoting the diffusion of European science, as far as possible, through the medium of the vernacular languages of the Panjáb, improving and extending vernacular literature generally, affording encouragement to the enlightened study of the Eastern classical languages and literature, and associating the learned and influential classes of the Province with the officers of Government in the promotion and supervision of popular education;

But it was at the same time provided that every encouragement should be afforded in that institution to the study of the English language and literature, and that in all subjects which could not be completely taught in the vernacular the English language should be regarded as the medium of examination and instruction therein;

And whereas this Institution was by a Notification, No. 172, dated 8th December, 1869, published in the *Panjáb Government Gazette* of the twenty-third day of December, 1869, declared to be so established in part fulfilment of the wishes of a large number of the Chiefs, Nobles and influential classes of the Panjáb, and it is now expedient, the said Institution having been attended with success, further to fulfil the wishes of the said Chiefs, Nobles and influential classes, by constituting the said Institution a University for the purpose of ascertaining, by means of examination or otherwise, the persons who, having studied in such Colleges as may be affiliated in manner hereinafter provided, have acquired proficiency in different branches of Literature, Science and Art, and for the purpose of conferring upon them academical degrees, diplomas, licenses and marks of honour;

And whereas it is also expedient that the University so constituted should be incorporated, and

that the property, moveable and immoveable, which has been hitherto held by, or in trust for, the said Institution should become the property of the University, subject to all existing trusts as to the manner in which, and the purposes to which, that property or any part thereof is to be applied ;

It is hereby enacted as follows :—

1. This Act may be called the Panjáb University Act, 1882;
Short title.
Commencement. and it shall come into force at once.

2. (1) A University shall be established at Lahore under the patronage of the Governor General for the time being.

(2) The University so established shall consist of a Chancellor, a Vice-Chancellor and such number of Fellows as may be determined in manner hereinafter provided.

(3) The University shall be a Body Corporate by the name of the University of the Panjáb, having perpetual succession and a common seal, with power to acquire and hold property, moveable or immoveable, to transfer the same, to contract, and to do all other things necessary for the purposes of its constitution.

(4) The University shall come into existence on such day as the Local Government may by notification in the official Gazette appoint in this behalf.

3. All the property, moveable and immoveable, at present held by or in trust for the Panjáb University College shall, when this Act comes into force, become the property of the University, to be administered by it for the purposes of the University subject to all existing trusts as to the manner in which, and the purposes to which, that property or any part thereof is to be applied.

4. The Lieutenant-Governor of the Panjáb for the time being shall be the Chancellor of the University; and the first Chancellor shall be the Hon'ble Sir Charles Umpherston Aitchison, Knight Commander of the Most Exalted Order of the Star of India, Companion of the Order of the Indian Empire, Doctor of Laws.

5. The Vice-Chancellor shall be such one of the Fellows as the Chancellor may, from time to time, by notification in the local official Gazette, appoint in this behalf.

He shall hold office for two years from the date of his appointment, and on the expiration of his term of office may be reappointed.

6. The following persons shall be Fellows, namely :—

(a) every person who has held the office of Chancellor and all persons for the time being holding such offices under Government as the Chancellor may, from time to time, by notification in the local official Gazette, specify in this behalf ;

(b) persons whom the Chancellor may, from time to time, by like notification, appoint by name as being eminent benefactors of the

Panjáb University, original promoters of the movement in favour of the establishment of the Panjáb University College, or persons distinguished for attainments in Literature, Science or Art, or for zeal in the cause of education ;

(c) such persons (if any) as may from time to time be elected by the Senate hereinafter constituted, and approved by the Chancellor ; and

(d) the representatives for the time being with the Government of the Panjáb of such Chiefs (if any) of territories not comprised in British India as the Lieutenant-Governor may, from time to time, by like notification, specify in this behalf :

Provided—

(1) that the whole number of the Fellows holding office under clauses (a), (b) and (c) exclusive of the Vice-Chancellor shall never be less than fifty ; and (2) that the number of persons elected under clause (c) shall never exceed the number appointed under clause (b).

7. The Chancellor may, whenever he thinks fit, by a notification in the local official Gazette, cancel the appointment of any Fellow appointed under section six, clause (b), or cancel or amend any notification issued under section six, clause (a) or clause (d).

8. If a Vice-Chancellor leaves India without the intention of returning thereto, he shall thereupon cease to be Vice-Chancellor.

9. (1) James Broadwood Lyall, Esquire, of the Bengal Civil Service, and at present Financial Commissioner of the Panjáb, shall be deemed to have been appointed the first Vice-Chancellor under section five ; and his term of office shall expire on the first day of September, 1884.

(2) The offices specified in Part I of the schedule hereto annexed shall be deemed to have been specified in a notification issued under section six, clause (a) ; and

(3) the persons named in Part II of that schedule shall be deemed to have been appointed Fellows under clause (b) of that section.

10. (1) The Chancellor, Vice-Chancellor and Fellows for the time being shall form the Senate of the University.

(2) The Senate shall have the entire management and superintendence over the affairs, concerns and property of the University, and shall provide for that management and exercise that superintendence at meetings convened in accordance with the rules made under this Act.

11. At every meeting of the Senate the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman ; and, in the absence of both, a Chairman shall be chosen by the Fellows present, or the majority of them.

12. Every question which comes before the Senate at a meeting shall be decided by a majority of the votes of the members present ; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote ;

The draft Bill referred to is that annexed to Panjáb letter No. 1277, dated 30th March, 1881.

Draft Bill, s. 1.

1. draft, s. 2.
2. also 42 & 43
3. draft, s. 2.

Draft, s. 4 :
Act II of 1857, s. 3.
42 & 43
Vic. c. 65, s. 3.

Draft, s. 2 & 3 :
Act II of 1857, ss. 1 & 2.
42 & 43
Vic. c. 65, s. 3.

Rev. :
42 & 43
Vic. c. 65, s. 12.

Draft, s. 5 :
Act II of 1857, s. 5.

Draft, s. 6 :
Act II of 1857, s. 5.

Draft, s. 8 :

Draft, s. 7
Act II of 1857, s. 5.

Draft, s. 10
Act II of 1857, s. 7.

Draft, s. 4

Draft, s. 2
Act II of 1857, s. 5.

Draft, s. 11
Act II of 1857, s. 8.

Draft, s. 12
Act II of 1857, s. 8.

Provided that no question shall be decided at any such meeting unless fourteen Fellows at the least besides the Chairman are present at the time of the decision.

13. Subject to such rules as may be made under this Act, the Senate may from time to time appoint and remove all examiners, officers and servants of the University, and may also appoint a Syndicate.

14. (1) The Senate may confer on all persons who have gone through such previous course of instruction in an affiliated college, passed such examinations in the University, and fulfilled such other conditions as may be prescribed by the rules to be made under this Act,—

(a) the degrees of Bachelor of Arts, Master of Arts, and, if empowered by the Governor General in Council in this behalf, the degrees of Bachelor of Laws, Bachelor of Medicine, Doctor of Medicine and Master of Civil Engineering, as the case may be;

(b) such other degrees and such diplomas or licenses as may be prescribed by any rules made under this Act; and

(c) such marks of honour for a high degree of proficiency in the different branches of Literature, Science and Art as may be prescribed by rules made as aforesaid.

(2) "Affiliated College" in this section means such Colleges as may from time to time be affiliated to the University by an order of the Senate approved of by the Local Government and confirmed by the Governor General in Council.

(3) An order affiliating a College may be rescinded by an order similarly made, approved and confirmed.

15. Notwithstanding anything in section fourteen, the Senate may confer degrees, diplomas, licenses or marks of honour as provided by that section on all persons who have in the year 1882, and previous to the passing of this Act, passed such examinations prescribed by the Panjab University College as may be sufficient to satisfy the Senate that they are persons qualified in point of learning to obtain those degrees, diplomas, licenses or marks of honour.

16. Notwithstanding anything hereinbefore contained, the Senate may grant a degree to any person without requiring him to undergo any examination for that degree:

Provided that the Vice-Chancellor, and not less than ten of the members of the Syndicate appointed under section thirteen (exclusive of the Vice-Chancellor, if a member of that Syndicate) certify in writing that in their opinion that person is, by reason of eminent position and attainments, a fit and proper person to receive such degree.

17. The Senate may charge such reasonable fees, on admission into the University, for continuance therein, and for the degrees, diplomas and licenses to be conferred by it, as the University,

with the approbation of the Chancellor, from time to time, thinks fit to impose.

18. (1) The Senate may from time to time make rules consistent with this Act touching—

(a) the mode and time of convening the meetings of the Senate;

(b) the appointment, removal and remuneration of the examiners, officers and servants;

(c) the appointment of the Syndicate;

(d) the previous course of instruction to be followed, the examinations to be passed, and the other conditions to be fulfilled by candidates for degrees, diplomas, licenses and marks of honour respectively;

(e) the conduct of examinations for the mode of granting, and the titles of, degrees, diplomas, licenses and marks of honour; and

(f) generally all matters regarding the University.

(2) All such rules shall be reduced into writing, and shall, after the common seal of the University has been affixed thereto, and they have been confirmed by the Lieutenant-Governor and sanctioned by the Governor General in Council, be binding on all persons, members of the University, or admitted thereto, and on all candidates for degrees, diplomas, licenses and marks of honour.

THE SCHEDULE.

(See Section 9.)

PART I.

Offices to be deemed to have been specified under section 6, clause (a) :—

Judge of the Chief Court, Panjab;
Financial Commissioner of the Panjab;
Surgeon-General of the Panjab;
Commissioner of Lahore;
Commissioner of Delhi;
Commissioner of Amritsar;
Accountant-General of the Panjab;
Director of Public Instruction, Panjab;
Principal of the Lahore Government College;
Principal of the Lahore Medical School;
Inspector of Schools;
Deputy Commissioner of Lahore;
Deputy Commissioner of Delhi;

PART II.

Persons to be deemed to have been appointed Fellows under section 6, clause (b) :—

His Highness Maharaja Ranbir Singh, of Jammu and Kashmir, G.C.S.I., C.I.E., Counsellor of the Empress of India;

His Highness Maharaja Rajindar Singh, of Patiala;

His Highness Nawab Sadik Muhammad Khan, of Bahawalpur, G.C.S.I.;

His Highness Raja Raghbir Singh, of Jind, G.C.S.I., C.I.E., Counsellor of the Empress of India;

His Highness Raja Hira Singh, of Nabha, G.C.S.I.;

His Highness Raja Jagatjit Singh, of Kapurthala;

Raja Bije Sen of Mandi;

Nawab Ibrahim Ali Khan, of Maler Kotla;

Nawab Abdul Majid Khan;

Sardár Ajit Singh, Atáriwála ;
 Rai Amin Chand, Sardár Bahádúr ;
 Maház-ul-Ulma Sardár Atar Singh, C.I.E., of
 Bhadaur ;
 Major-General Henry Prevost Babbage, Ben-
 gal Staff Corps, late Deputy Commissioner,
 Panjáb ;
 David Graham Barkley, Esquire, M.A., Bengal
 Civil Service, Barrister-at-Law ;
 Deputy Surgeon-General Henry Walter Bellew,
 C.S.I. ;
 Reverend Edward Bickersteth, M.A. ;
 Charles Boulnois, Esquire, Barrister-at-Law, late
 Judge, Chief Court, Panjáb ;
 Sardár Bikrama Singh, C.S.I., Ahluwália ;
 Arthur Brandreth, Esquire, Barrister-at-Law,
 late of the Bengal Civil Service, and Judge, Chief
 Court, Panjáb ;
 Surgeon-Major Thomas Edwin Burton Brown,
 M.D. ;
 James Scarlett Campbell, Esquire, late of the
 Bengal Civil Service, and Judge, Chief Court,
 Panjáb ;
 Surgeon-Major William Center, M.D., M.A. ;
 Reverend Robert Clark, M.A. ;
 John Graham Cordery, Esquire, M.A., Bengal
 Civil Service ;
 The Hon'ble Henry Stuart Cunningham,
 Esquire, M.A., Barrister-at-Law, Judge of the
 High Court, Calcutta ;
 Surgeon-Major Alexander Morrison Dallas ;
 Mansel Longworth Dames, Esquire, Bengal
 Civil Service ;
 Deputy Surgeon-General Annesley Charles
 Castriot DeRenzy, B.A. ;
 Sir Robert Henry Davies, K.C.S.I., C.I.E., late
 Lieutenant-Governor of the Panjáb and its De-
 pendencies ;
 Colonel William George Davies, C.S.I. ;
 Sir Robert Eyles Egerton, K.C.S.I., C.I.E.,
 Counsellor of the Empress, late Lieutenant-
 Governor of the Panjáb and its Dependencies ;
 Dennis Fitzpatrick, Esquire, B.A., Bengal Civil
 Service, Barrister-at-Law ;
 Reverend C. W. Foreman, D.D. ;
 The Right Reverend Thomas Valpy French,
 D.D., Lord Bishop of Lahore ;
 Munshi Ghulam Nabi ;
 Surgeon-Major Robert Gray, M.B. ;
 Major Leopold John Henry Gray, C.S.I., Ben-
 gal Staff Corps ;
 Sir Lepel Henry Griffin, K.C.S.I., Bengal Civil
 Service ;
 Pandit Guru Parslád ;
 Syad Hádi Husain Khan ;
 Rája Harbans Singh ;
 Kaur Harnám Singh, Ahluwália ;
 Edward Piercy Henderson, Esquire, Bengal Civil
 Service, Barrister-at-Law ;
 Surgeon-Major George Henderson, M.D. ;
 Mir Hidáyat Ali Khán, Bahádúr ;
 Lieutenant-Colonel William Rice Morland Hol-
 royd ;
 Reverend W. Hooper, M.A. ;
 Reverend T. P. Hughes, B.D. ;
 Munshi Hukm Chand ;
 Sodhi Hukm Singh ;
 Denzil Charles Jelf Ibbetson, Esquire, B.A.,
 Bengal Civil Service ;
 Rájá Jahándád Khán, Khán Bahádúr, Ghukkar ;
 Agha Kalbabid ;
 Fakír Syad Kamr-ud-din ;
 Rai Bahádúr Kanhya Lal, C.E. ;
 Khán Bahádúr Khán Muhammad Shah ;

Bába Khem Singh, C.I.E., Bedi ;
 John Lockwood Kipling, Esquire ;
 Charles Robert Lindsay, Esquire, late of the
 Bengal Civil Service, and Judge, Chief Court
 Panjáb ;
 Surgeon Edward Lawrie, M.D. ;
 Gottlieb William Leitner, Esquire, M.A., PH.D.,
 LL.D. ;
 Thomas Crampton Lewis, Esquire, M.A. ;
 James Broadwood Lyall, Esquire, Bengal Civil
 Service ;
 General Robert MacLagan, R.E., late Secretary
 to Government, Panjáb, Public Works Depart-
 ment ;
 Colonel Charles Alexander McMahon ;
 The Ven'ble Henry James Matthew, M.A.,
 Archdeacon of Lahore ;
 Colonel Julius George Medley, R.E. ;
 Philip Sandys Melvill, Esquire, C.S.I., late of
 the Bengal Civil Service, and Governor-General's
 Agent, Baroda ;
 John Andrew Erasmus Miller, Esquire ;
 Pandit Moti Lal, Káthju ;
 Khán Bahádúr Muhammad Barkat Ali Khán ;
 Muhammad Hyat Khán, C.S.I. ;
 Khalifa Syad Muhammad Hussain ;
 Rái Mul Singh ;
 Násir Ali Khán, Kazilbásh ;
 Nawab Nawázish Ali Khán ;
 Major Edward Newbery ;
 Bábu Navina Chandra Rái ;
 Edward O'Brien, Esquire, Bengal Civil Service ;
 Henry Edmund Perkins, Esquire, Bengal Civil
 Service ;
 Henry Meredith Plowden, Esquire, B.A., Barris-
 ter-at-Law ;
 Major-General Charles Pollard, R.E. ;
 Baden Henry Baden-Powell, Esquire, Bengal
 Civil Service ;
 Edward Augustus Prinsep, Esquire, late of the
 Bengal Civil Service, and Settlement Commis-
 sioner, Panjáb ;
 Honorary Surgeon Rahim Khán, Khán Bahádúr ;
 Diwán Rám Náth ;
 William Henry Rattigan, Esquire, M.A., PH.D.,
 Barrister-at-Law ;
 Pandit Rikhi Kesh ;
 Rájá Sir Sahib Dyal, K.C.S.I. ;
 Rái Bahádúr Sahib Singh ;
 Leslie Seymour Saunders, Esquire, Bengal
 Civil Service ;
 David Simson, Esquire, late of the Bengal Civil
 Service, and Judge, Chief Court, Panjáb ;
 Brigade-Surgeon John Barclay Scriven, late
 Civil Surgeon, Lahore ;
 John Sime, Esquire, B.A. ;
 Surgeon-General Charles Manners Smith,
 late of the Indian Medical Service ;
 John Watt Smyth, Esquire, Bengal Civil
 Service, Barrister-at-Law ;
 Charles Henry Spitta, Esquire, LL.B., Barrister-
 at-Law ;
 Thomas Henry Thornton, Esquire, D.C.L., C.S.I.,
 late of the Bengal Civil Service, and Judge,
 Chief Court, Panjáb ;
 Thomas William Hooper Tolbort, Esquire,
 Bengal Civil Service, Barrister-at-Law ;
 Charles Lewis Tupper, Esquire, B.A., Bengal
 Civil Service ;
 Major Isaac Peatt Westmoreland, R.E. ;
 Lieutenant-Colonel George Gordon Young ;
 William Mackworth Young, Esquire, M.A.,
 Bengal Civil Service ;
 Maulvi Zia-ud-din Khán.

STATEMENT OF OBJECTS AND REASONS.

In the year 1869 the Governor General in Council was pleased, in accordance with the recommendations of the Lieutenant-Governor of the Panjáb, and in part fulfilment of the wishes of a large number of the chiefs, nobles and influential classes of the Panjáb, to sanction the establishment at Lahore of an institution, then styled the Lahore University College, but subsequently styled the Panjáb University College. The special objects of this College, as stated by its statutes, were as follows:—

- (1) to promote the diffusion of European science as far as possible through the medium of the vernacular languages of the Panjáb, and to improve and extend vernacular literature generally;
- (2) to afford encouragement to the enlightened study of Eastern classical languages and literature; and
- (3) to associate the learned and influential classes of the Province with the officers of Government in the promotion and supervision of popular education.

It was, however, at the same time laid down that every encouragement should be afforded to the study of the English language and literature, and that in all subjects which could not be completely taught in the Vernacular the English language would be regarded as the medium of examination and instruction.

At the time of the establishment of this College, promises were held out by Government that, if attended with due success, it might eventually be raised to the status of a University; and large sums of money have been, from time to time, given to the College by the chiefs and influential classes of the Panjáb, who have long looked forward to the fulfilment of these promises. As the College has, in the opinion of Government, been attended with due success, it has been determined to carry out what is believed to be the almost universal wish of the Natives of the Panjáb who are interested in education, and constitute the College a University.

2. The present Bill has, therefore, been prepared. Section 2 establishes the University, and confers on it all the powers of a body corporate. Section 3 provides for the transfer to the University of all the property at present held by or in trust for the University College. Sections 4 to 8 deal with the constitution of the University, and provide for a Chancellor, who is to be the Lieutenant-Governor of the Panjáb for the time being, a Vice-Chancellor to be appointed by the Chancellor, and a body of Fellows.

The Fellows will be of four classes, namely: (1) the holders for the time being of certain offices, who are to be *ex-officio* Fellows; (2) persons appointed by the Chancellor as being eminent benefactors of the University, original promoters of the movement in favour of the Panjáb University College, or persons distinguished for attainments in literature, science or art, or by zeal in the cause of education; (3) persons chosen by the Senate and approved by the Chancellor; and (4) the representatives for the time being with the Government of the Panjáb of such independent Native chiefs as the Lieutenant-Governor may by notification in the Gazette specify. The schedule annexed to the Act contains a list of the persons who are to be deemed to be the first Fellows. Sections 10, 11 and 12 provide for a Senate and matters connected therewith. Section 13 empowers the Senate to appoint and remove all examiners, officers and servants of the University. Section 14 empowers it to confer certain degrees, but restricts the exercise of the power to confer the degrees of Bachelor of Laws, Bachelor of Medicine, Doctor of Medicine and Master of Civil Engineering until the Governor General in Council has given his assent thereto; and section 15 gives it power to confer like degrees in the case of persons who may have passed during the year 1882 such examinations of the Panjáb University College as may correspond to the degree examinations of the University. Section 16 empowers the Senate to confer honorary degrees in certain cases; section 17 to levy fees; and section 18 to make rules generally in all matters regarding the University.

J. GIBBS.

The 7th June, 1882.

D. FITZPATRICK,
Secy. to the Govt. of India.